

Gender differentiated impact of investment climate reforms: a critical review of the Doing Business Report

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Deutsches Institut für
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German Development
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Gender Differentiated Impact of Investment Climate Reforms

A Critical Review of the *Doing Business* Report

Aimée Hampel-Milagrosa

DIE Research Project
"Improving the Investment Climate in Developing Countries"



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Abstract

This paper examines how reforms of the regulatory business environment inspired by the World Bank's *Doing Business* reports impact the economic participation of women in developing countries. It focuses on gender-related impacts of four business environment reforms in areas of 1) Obtaining Credit, 2) Registering Property, 3) Starting a Business and 4) Employing Workers. The paper begins by describing the methodology of the *Doing Business* reports and how the suggested reforms would lead to private sector growth. Then, using an institutional economics framework, it traces women's most binding constraints in areas of credit, land titling, business start-up and female employment that the *Doing Business* failed to capture. Discussions show how *Doing Business*-style reforms in the four areas mentioned create ambiguous impacts for women entrepreneurs by either leading to increased economic opportunities or reinforcing constraints and opening up areas for exploitation. The paper emphasises that although most of the binding constraints for female economic participation take root at the level of customs, norms and beliefs – it is possible for the government to remove discrimination in the private sector by creating informed, gender-sensitive reforms.

Keywords:

Gender, enterprises, institutions, *Doing Business*, business regulatory environment, private sector development

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Abbreviations

ADB	Asian Development Bank
AERC	African Economic Research Consortium
CEE	Central and East European Countries
CLS	Core Labour Standards
COFOPRI	Commission for the Official Registration of Informal Property
DB(R)	<i>Doing Business</i> (Report)
EC	European Commission
FAO	Food and Agriculture Organization of the United Nations
GDP	Gross Domestic Product
GEM	Global Entrepreneurship Monitor
IFC	International Finance Corporation
IFPRI	International Food Policy Research Institute
ILO	International Labour Office
ITUC	International Trade Union Confederation
Lao PDR	Lao People's Democratic Republic
MSEs	Micro and Small Enterprises
NIE	New Institutional Economics
OECD / DAC	Organisation for Economic Co-operation and Development / Development Assistance Committee
PSD	Private Sector Development
U. A. E.	United Arab Emirates
UNECA	United Nations Economic Commission for Africa

1 Introduction

For years, women have played important but often underestimated roles in development. This was one of the main arguments of Ester Boserup in her seminal work analyzing the critical contribution of females to economic growth (1970). Not more than half a century later, her arguments still sustain for most of the world's developing economies, in rural agricultural production and in urban business environments as well. Volumes of research bear evidence that not only are women's economic roles undervalued, women are also affected by – and respond to – reforms differently than men.

Before development research became gender sensitive, policy and processes tended not to address the specific link between women and development. The unintended result was a widening of gender-related inequalities in productive factors such as land distribution, income and employment opportunities (Braig 2000, 13). The fact is, fundamental legislation and social environments of many countries today preclude women from owning property or entering financial agreements without a man's consent. In many countries women are legally and informally ineligible to access resources such as education, credit and training which are necessary factors for economic independence (Todaro / Smith 2006, 228). Thus the reality of the developing world is that, due to institutional and social constraints, women make up a substantial majority of the poor, and are frequently restricted to low-productivity, low-paying informal occupations compared to men (Chen 2004, 3).

Removing institutional barriers constraining the economy would allow poor countries to flourish and develop more rapidly – and that is the objective the of World Bank with the *Doing Business* project. Results from the worldwide *Doing Business* survey are translated into suggested reforms that promise increased economic opportunities for all, including women. Development experience worldwide show that policies tend to fail to deliver equitable, widespread economic outcomes and fail to elevate the status of women when they do not address gender-specific issues. Development experience also show that what is needed are policies that specifically establish equal rights and opportunities for women and men (IFPRI 2006; Todaro / Smith 2006). With the explicit proposal that “one size fits all” the World Bank argued that the main tool to promote economic growth and expand opportunities for poor people is the standardization of Law along the lines identified by the best legal practice (World Bank 2004, viii, xvi; Ménard / Marais 2006, 10). The *Doing Business* Report (DBR) quantified several legal procedures with crucial impacts on private sector development into five indicators in 2004, seven in 2005 and ten in 2006, 2007 and 2008.¹ While the phraseology of consequent reports was more nuanced, the reports maintain their initial arguments that deregulation creates a large positive impact on economic growth (Djankov / McLiesh / Ramalho 2006, 399; ITUC 2007, 2; Ménard / Marais 2006, 10).

A global fact is, in no region of the developing world are women equal to men in legal, social and economic rights. Despite advances in the absolute status of women and gender equality in most developing countries, all societies still exhibit varying levels of gender asymmetries (World Bank 2000, 1–2). Therefore, when prescribed institutional reforms do not recognise the socio-economic condition of women, and integrate gender sensitivity,

1 *Doing Business* in 2004: Understanding regulation; *Doing Business* in 2005: Removing obstacles to growth; *Doing Business* in 2006: Creating jobs; *Doing Business* in 2007: How to reform; *Doing Business* in 2008: Comparing regulation in 178 economies.

the expected increases in growth stemming from increased investment and economic activity may not benefit women. This paper will analyse the World Bank's *Doing Business* indicators and the institutional reforms borne out of the project. The approach is a critical evaluation of how liberalizing the regulatory business environment would impact the economic status of women entrepreneurs and employees in society. Drawing from literature, the paper will show the various gender-related dimensions of enterprise development that the *Doing Business* Reports and their subsequent reform suggestions failed to capture. The rest of the paper proceeds as follows. Section 2 begins by describing the methodology of the *Doing Business* Reports and how reforms in the business regulatory environment would lead to private sector growth. This section also discusses the critical gender-related dimensions of enterprise development that can be observed in most developing countries. In Section 3 an institutional framework developed by Williamson (2000, 597) that shows the various levels of social analysis will be presented. This framework is employed in Section 4 where the influence of institutions on critical pillars of female enterprise development is analyzed. Section 5 will build upon this discussion by selecting and evaluating four indicators within which regulatory reform creates the greatest gender-differentiated economic impacts. Section 6 presents conclusions and policy recommendations on how to mainstream the gender issue in the *Doing Business* Series methodology.

2 The *Doing Business* reports and gender dimensions of enterprise development

2.1 The *Doing Business* Reports and Investment Climates

The *Doing Business* Reports (DBRs) began by measuring five indicators (Starting a Business, Hiring and Firing workers, Enforcing Contracts, Getting Credit and Closing a Business) across 133 countries in 2004. This was achieved by collecting various laws and regulations in force and by creating a questionnaire regarding the legal procedures necessary for a hypothetical domestic company to get off the ground. The instrument was answered by local experts, tax officers, labour and financial lawyers, judges and consultants from the countries included in the survey (World Bank 2004, ix). Knowing that among countries and within countries, staggering differences exist in businesses, *Doing Business* used several assumptions in order to make enterprises statistically comparable (ibid, 1–7). Aggregating indicators resulted in an assessment of the quality of a country's legal system, and into global rankings that depends on the number of indicators and the total number of countries included in that year (Ménard / Marais 2006, 10). Based on costs, time and procedural steps needed by the hypothetical business to operate, the rankings determined which countries are havens for investors, the easiest to do business in.

In the succeeding years, the indicators were updated at the same time that new indicators were added and the total number of economies covered in the reports enlarged. For 2005, two countries and two new indicators were added (Registering Property and Protecting Investors). For 2006, three new indicators were added (Dealing with Licenses, Paying Taxes, and Trading Across Borders) while the total number of countries covered in the reports increased to 155. For 2007, 20 new economies were added, totalling to 175 countries measuring regulations on 10 fronts. *Doing Business* 2008, the fifth and latest in the series, investigates regulations in 178 economies. Future work involves the inclusion of

three more indicators (Paying Bribes, Opportunities for Women and Infrastructure) (World Bank 2008).

The intuition behind *Doing Business* is relatively simple: institutional quality is a major determinant to prosperity and cumbersome business regulations stifles productive activity (World Bank 2004, viii, xi). The objective of the exercise is similarly simple: what gets measured gets done. By measuring and ranking business regulatory environments worldwide, lower-ranked countries will be motivated to reform the manner in which administrative procedures are implemented. Through the report's benchmarking approach, investment climates worldwide could be evaluated on a standardized scale, posing multiple strategic benefits for local and foreign businesses while at the same time encouraging governments to inspect how well private sector development is supported by their regime. The intuition behind the *Doing Business* extends towards the consensus that an institutional climate that rewards investments is the key to private sector development. This is because government policies directly determine the risks, costs and benefits for all involved in *Doing Business*.

The deliberate focus of the *Doing Business* Reports on private sector development (PSD) is an expected reaction to a conspicuous shift in mainstream development philosophy that moved from a market failure-based to a government failure-based approach to economic growth (Altenburg / Drachenfels 2006, 387). Whereas previously, the internal shortcomings of firms were cited for the dismal performance of economies of less developed countries, underdevelopment is now ascribed to the existence of unfavourable government rules and regulations that aggravate business conditions for enterprises. It was only recently that mainstream research from international agencies positioned private sector development (PSD) at the heart of the development process, attributing to its instigative effects on growth, employment, poverty reduction and economic development (UNECA 2005, 2). Latest policy documents from the World Bank, the United Nations Development Programme (UNDP) and the Organisation for Economic Co-operation and Development – Development Assistance Committee (OECD-DAC) have begun to emphasise the economic potential of the private sector, in particular, the informal sector in boosting economic growth (Altenburg / Drachenfels 2006, 387–388). Therefore, by identifying and removing regulatory bottlenecks that constrain private sector growth and by creating favourable institutional climates for micro enterprises to large-scale manufacturers alike, governments will be in an excellent position to boost growth through the stimulation of private sector investment.

Although there is no doubt that less complicated regulatory environments are beneficial for businesses of all sizes, the creation of a “level playing field” for all entrepreneurs may entail more than simplification of cumbersome procedures and regulations that stifle productive activity. Worldwide, staggering differences in cultural, historical and ethnic characteristics of countries require a variety of development instruments to address the social and economic specificities of each economy. This means that developmental approaches targeting increased investments and improved performance of the private sector through the standardization of business regulation to a global benchmark will go against the variety of country-specific methods each government uses to tackle unique economic specificities (Ménard / Marais 2006, 19). Moreover, as is well known by people involved in development research and project implementation, there exist several *real* social and economic binding constraints on the field that cannot be simply disentangled through standardized legislation. For example, a survey of 80 countries by Ayyagari / Demirgüç-Kunt /

Maksimovic (2006) showed that the most binding constraints for enterprise growth are not regulations but rather financial, criminal and political stability issues. For another example, although minimization of days, procedures and steps involved in starting a business in Haiti and Democratic Republic of Congo is necessary (each require 203 and 215 days respectively)², it is certainly not sufficient to boost investment in these countries. Rather, improvements in the regulatory environment are perceived to work for the country in combination with improvements in infrastructure, education and skills and communication and information technologies, among others.

Indeed, the *Doing Business* is a decisive step towards seriously looking at institutions as key determinants in the explanation of development and growth. However, we cannot simply establish that better regulations equates to faster growth. As mentioned earlier, there are several economy-specific binding constraints that globally standardized regulations could not address. Significant parameters of enterprise development such as lack of education, technical and managerial skills, infrastructure deficiencies, low financial resources and female discrimination are some basic constraints that also needs to be tackled, because these are fundamental factors that establish competitiveness. Education and skills, infrastructure and social norms for economic participation of sexes are critical state-capacities that are essential for ensuring high investment rates. Among the fundamental factors determining competitiveness, gender-based discrepancies in terms of access to and control over economic resources has evolved as one of the most critical issues underlying enterprise development (Akua Duncan / Brants 2004, 45).

2.2 Gender dimensions of enterprise development

For years, policymakers assumed that women were largely concerned with domestic non-economic activities while men were responsible for the sustenance of their wife and children (Todaro / Smith 2006, 229). This led to the underestimation of the economic potential of women and the tailoring of many policy reforms towards men (Vugt 1991, 6). However, gender orientated research at all levels show that women contribute significantly to economic activities of the household despite the fact that their contributions are oftentimes undervalued. A World Bank study showed that in Sub Saharan Africa, women provide about 70 % of total agricultural labour (Blackden / Bhanu 1998). In Congo alone, women provide 80 % of labour for food production (Rojas 2005, 1). In Asia and Latin America, women provide about 80 % and 40 % of unpaid agricultural labour for cash crops respectively. In the urban areas, women end up working in the informal sector due to their lack of education, skills and financial resources. Participation rates of women in the informal sector is about 80% in Lima, Peru; 72 % in Zambia; and 41 % in the Republic of Korea (ILO 1998b, 1). However, despite being overrepresented by women, the informal sector continues to play an important economic role in developing countries, providing over 30 % of employment in Serbia, Croatia and Bulgaria, and over 60 % of employment in Colombia, Indonesia and Chad (Todaro / Smith 2006, 329, 440). In 2003, Sub-Saharan Africa, Latin America and Central Asia recorded the highest and fastest growing levels of informality, with informal economy contributions reaching up to 50 % of their GDPs (Palmade / Anayiotos 2005, 1).

2 For more information see: World Bank (2004).

Several new studies from the International Food Policy Research Institute (IFPRI) reaffirm the economic and social benefits of raising women's status. In Bangladesh, women-specific agricultural technology – technology that helps women achieve efficiency in their agricultural tasks - were found to have a greater impact on poverty than “gender-insensitive” technology (Hallman / Lewis / Begum 2003). An information campaign in Kenya towards women increased maize yields by 28 %, beans by 80 % and potatoes by 84 % (Rojas 2005, 2). In Sub-Saharan Africa, significant gains in agricultural productivity were recorded when access to agricultural inputs such as education, labour and fertilizer were equalized between men and women (Alderman et al. 2003). In fact, when women receive the same education as men, farm yields rise by as much as 22 % (Rojas 2005, 2). In three developing regions namely, South Asia, Sub-Saharan African and Latin America and the Caribbean, research showed that raising women's status relative to men's in households, communities and nations has a direct relationship towards improved health, longevity and productivity of children. Moreover, promoting vegetable gardens and food crops, that are often within the purview of women, benefits not only women but the whole household and more importantly, the girls *within* a household (Smith et al. 2003; Skoufias-McClafferty 2001; Rojas 2005, 2).

Thus, the central role of women in economic production contrasts sharply with the discrimination they face in access to and control over basic assets needed to participate in a country's development process (Dowuona-Hammond 2008, 2). Oftentimes, powerful social norms upheld by centuries-old tradition and even modern legal doctrines fundamentally restrict women's rights, their full potential, and socio-economic capabilities. All over the world, women constantly face the absence of economic opportunities, lack of access to economic resources, including land ownership and inheritance, lack of credit, lack of access to education and health services as well as minimal participation in the decision-making process. It is because of these constraints that gender gaps in income occur, resulting in an overwhelmingly female-biased world's poor (Beijing Declaration and Platform for Action 1995; Todaro / Smith 2006, 227). Gendered research shows that women face additional challenges than men when it comes to establishing and developing their own enterprises and accessing economic resources (Mayoux 2001). On top of the common problems faced by all small-scale entrepreneurs, women still need to confront a gender bias in terms of social, cultural, educational, financial and technological challenges for their businesses. Clearly, the gendered nature of development means that alongside poverty eradication, gender is a core development issue, and a development objective in its own right (World Bank 2000, 1).

Excluding countries where strong social norms disallow females from participating in the public domain (for example Bangladesh, Pakistan and Afghanistan; as discussed by Rojas (2005, 1) development patterns in recent years showed an increasing number of women getting more and more involved in the private sector, mostly through micro and small, and at times in medium and large enterprises. The private sector with its informal and formal components is increasingly seen as a means of generating meaningful and sustainable employment opportunities for marginalized people in society namely women, the poor and people with disabilities (ILO, 1998a). In fact, a peculiar characteristic of micro and small enterprises (MSEs) in the private sector is the large presence of women as enterprise owners. It was only after realising that the informal sector is steadily growing in almost all developing countries – contributing up to 30 % of GDP – that women entrepreneurship gathered the attention of policy makers and researchers (ILO, 1998b, 1; Schneider / Klinglmair 2004). Afterwards, research showed that female-headed enterprises were high-

potential but untapped sources of economic growth (Richardson / Howard / Finnegan 2004, 1; Hall 2003). Now, female enterprises are recognized as triggers for growth and for trickle-down effects towards poverty alleviation, gender inequality and women empowerment (ILO 1998b, 1; Mayoux 1997, 1).

Social limitations and gender biases against women is consequent of the country's Institutional Environment. The tolerance for women to access and control productive resources and participate actively in society lies in the formal rules and informal constraints that are in place within a country (North 1990; Williamson 1998, 27). In most modern societies, the rule of law oversees public interactions and gives equal credence to men and women in all aspects of social exchange. The rule of law is the first recourse in legal agreements, and is the ultimate resolution in times of discord. However, in most of the developing world, the layout of social rules is not as black-and-white. Customary regulation consisting of beliefs, tradition, religion, social norms and taboos could be respected by the people with the same degree as statutory legislation. In a *handful* of countries, an informal institution that explicitly disadvantages women from participating productively in society is even strengthened by legal rules that operate towards this effect (for example, legislation with regards to female employment in Congo, United Arab Emirates, Yemen and Lao People's Democratic Republic in World Bank 2008, 19). In *most* countries, despite the formal legislation directed at empowering women, informal institutions still take precedence, entirely excluding women from the development process (for example, key legislation in Uganda and Ghana, in: Dowuona-Hammond 2008, 3; Ellis / Manuel / Blackden 2006, 17). In the long term, whether the instrument is through rules and regulations, customs and tradition or the disparity between the two, societies that do not vigorously address the discrimination of women are not fully tapping the country's potential to boost its private sector and develop the economy.

3 Institutional dimensions of gender in enterprise development

Women face a different set of circumstances than men as dictated by written and unwritten rules of society. In New Institutional Economics (NIE), these rules are referred to as institutions. According to Williamson (2000, 597), there are four levels of social analysis by which we can study institutions. The same framework could be utilised to analyse the institutions affecting women in the process of starting businesses. The levels are illustrated in Table 1.

On the highest level – Level 1 – of Williamson's diagram is where Social Embeddedness is located. It is at the Embeddedness level where customs, traditions, beliefs and norms form. According to Williamson (ibid, 596), the Embeddedness level is taken as given by many institutional economists because it requires decades, even centuries, to change. The attributes of the Embeddedness Level influences Level 2 which is the Institutional Environment. The Institutional Environment refers to the formal and informal social rules, laws regulations and sanctions that changes at the rate of 10 years to a century. Because Level 2 is where formal and informal laws form, the Institutional Environment is defined as to set the "*rules of the game*" (North 1990 / Williamson 1998, 27). At Level 3 is the Governance structure level that refers to the "*play – or organization – of the game*". Governance structures are the ways of putting into action the framework for operations outlined by the Institutional Environment. Ménard / Marais (2006, 35) defines it as "*ways to implement and*

Table 1: Economics of institutions			
	Level	Frequency of Change (years)	Purpose of Analysis
L1	Embeddedness: Informal Institutions, Customs, Traditions, Norms and Religion ↓	10^2 to 10^3	Often non-calculative; spontaneous
L2	Institutional Environment: Formal and informal Rules of the game – esp. property (polity, judiciary, and bureaucracy) ↓	10 to 10^2	Get the Institutional Environment Right
L3	Governance: Play of the game – esp. contract (aligning governance structures with transactions) ↓	1 to 10	Get the Governance structures right
L4	Resource Allocation and Employment (prices and quantities; incentive alignment) ↓	Continuous	Get the marginal conditions right
Source: Williamson (2000, 597)			

operationalise the rules of the game as defined by the Institutional Environment.” Change in the Governance structures occur more frequently, at the rate of one year up to a decade. The manner in which transactions are carried out affects Level 4 – the Resource Allocation level. Resource Allocation could refer to the allocation of time or income, decision-making towards optimization, prices and production quantities. At this level, change is continuous.

In Table 1, “Purpose of Analysis” refers to opportunities that open up for researchers and policymakers to target problems located at that level. The downward moving arrows signify influence from the higher level going down whereas upward moving arrows signify feedback from the lower level going up.

The social level that the *Doing Business* reforms hope to influence is the Institutional Environment due to its significant role in shaping events at the downstream level. This is because good institutions create a more favourable environment supporting economic growth. Well-organized institutions translate into good Governance structures, and further on, into returns to Resource Allocation (Slangen / van Krooten / Suchanek 2004, 247). Good institutions contain efficient information transfer mechanisms that result in appropriate decisions among parties involved. Economic development and good institutions are mutually occurring reciprocal phenomena. On the one hand, economically developed areas demand *for* and contribute *to* good institutions. On the other hand, a good institution creates economic development (Milagrosa 2007, 28).

The Institutional Environment's informal rules overlap with aspects of social Embeddedness. Informal sanctions in the Institutional Environment consist of non-political, non-economic and unwritten conventions such as taboos, traditions, customs and norms. The same items are embraced within the social Embeddedness context. The two are linked because institutions establish incentives for people to act trustworthily in transactions by their means of reward and punishment. Institutions improve economic efficiency by supplying information, advice and providing alternative conflict resolution mechanisms that encourage parties to co-operate and behave in a trustworthy manner (Schlager / Ostrom 1992, 20). Thus it is difficult to reform informal rules that have evolved and embedded themselves in society. In some cultures rich in tradition, a few customs are detrimental to economic growth. Institutions that try to establish a formal system that repels informal rules could produce negative results because of tension between altered formal rules and existing informal rules (Saleth / Dinar 2004, 27).

Using the framework above to guide the discussion, the following sections will elaborate on the interaction between customs, regulations and reform in the Institutional Environment in the context of female enterprise development. It will present gender-biased social backgrounds in the areas of obtaining credit, property titling, starting a business and employment that create divergent processes, experiences and *results*, between men and women.

4 Institutions and gender inequality in enterprise development

4.1 The female-sided process of obtaining credit

Studies by the ILO in the Philippines and Bangladesh identify lack of access to credit as a major or even as *the* major constraint to women micro and small entrepreneurs (ILO 1998b, 2). Studies by the World Bank International Finance Cooperation (IFC) in Kenya show that women consistently rated access to finance as the single biggest constraint preventing them from growing their business (Ellis et al. 2007b, 41). In the developing world, women's access to credit is limited because lending offices usually require tangible collateral from poor borrowers to guarantee loans. Aside from equipment, the most commonly accepted tangible form of collateral is land due to its fixed attribute and appreciating value over time. However, many women do not own property that can be used as collateral because, gender relationships play a central role in the way in which land rights are determined (Dowuona-Hammond 2008, 1).³

Informal credit sources and microfinance institutions are easier for women to approach because some institutions explicitly target women clients after research showed that women were better borrowers (Almeyda 1996; Ellis et al. 2007b, 46).⁴ Informal credit sources take the form of moneylenders, pawnbrokers, rotating savings and credit associations, friends, relatives, suppliers and shopkeepers (Richardson / Howarth / Finnegan 2004, 20; ILO 1998b, 2). Microfinance institutions use "collateral substitutes" to over-

3 According to Ellis et al. (2007b, 46) Kenyan women own "movable property" such as livestock, machinery and book debts these assets are infrequently used as security loan.

4 Unfortunately, these records are not made available to commercial banks, leaving women with no proof of their creditworthiness (Ellis et al. 2007b, 46).

come women's lack of traditional collateral such as property, equipment or capital. Collateral substitutes may take the form of peer pressure (group-based lending set-up) or probation (credit scoring) (ILO 1996). Informal credit sources offer a lot of potential advantages for women borrowers in terms of immediacy of loan disbursement, flexible repayment schedules and minimum collateral requirements. However, failure to pay makes it financially and socially costly whilst the process of joining could be quite discriminatory. Aside from high interest rates, the group-based lending set-up of many micro-credit organizations may not suit women who are intending to expand businesses (Hadiya 1998). Women entrepreneurs who are trying to grow beyond the micro-enterprise level may have outgrown microfinance limits and require bigger amounts for business expansion (Ellis / Manuel / Blackden 2006, 45; Cutura 2007, 8).

Statutory formal laws in some countries may explicitly restrict women's access to commercial credit. For example in Swaziland and Zambia, women need the consent of their husband, father or other male family member to open an account and obtain a loan (Ellis / Cutura 2007, 6). Other laws that hamper women from obtaining credit are unworkable and inflexible. For example Kenya's current framework regulating the creation and realization of non-land secured interests does not permit loans to be taken out without land-based collateral (Ellis et al. 2007b). In Uganda, the constitution provides for equality between both sexes, but key legislation and culture are still biased against women. The legal story is the same: most commercial banks require a husband's co-signature to open an account and land is the most accepted form of collateral. Thus, women receive only 9 % of available commercial credit and most source loans through microfinance institutions (Mukasa et al. 2004). It is worthwhile to note here how important information about women's good repayment reputation are not transferred to commercial banks (Ellis / Manuel / Blackden 2006, 45). This is observed in Kenya where, despite having no official rule with regards to women in terms of taking out loans, discriminatory bank officials (informal constraint) prefer to deal with men and do not take women seriously (Ellis et al. 2007b, 44). Bank officials feel that women are not key decision makers, despite the fact that the enterprise is owned and operated by them (Cutura 2007).

Further downstream, the lack of exposure to legal financial processes means few women have credit history, and most have insufficient knowledge and experience when it comes to borrowing. Women are seen as less informed about bank requirements and less understanding about how to approach banks for loans, resulting in weaker confidence in women borrowers (Richardson / Howard / Finnegan 2004, 20). Independent research in Ethiopia and Uganda confirmed this, and noted that women entrepreneurs were more prone to exorbitant interest rates, bribes, threats of closure and unfair money lending practices (Ellis / Manuel / Blackden 2006, 39; Hadiya 1998). Kenyan women entrepreneurs reported that bank officials tend to ignore them during meetings and prefer to speak to their husbands or male relatives. Moreover, formal services in banking and credit in Sub-Saharan Africa have shown little interest in making their services accessible and attractive to women (Jiggins 1989, 959). In Kenya, commercial banks were not interested in serving women-led small and medium enterprises because of the perception of higher credit risk and higher transaction costs (Ellis et al. 2007b). A total effect is that, women are also discouraged to approach formal lending institutions and are confined to informal savings groups (Cutura 2007, 9).

The following discussion will use the framework elaborated in Section 3 to highlight how formal rules interact with cultural aspects of society to discriminate women entrepreneurs





from accessing finance. Table 2 is an expansion of the gender-finance matrix proposed by Johnson (2007, 1) combined with the institutional analysis framework of Williamson (2000, 597). The table transposes women's constraints in accessing credit with levels of society within which these constraints lie. Although the matrix does not encompass all issues concerning women's credit access, it highlights institutional aspects of financial access that poses problems for women at the individual, household and national level. In the table, the "Individual Level" on the second column refers to constraints owing to the woman's own endowment of skills, knowledge and confidence whereas the "Household Level" mainly refers to intra-marital relations, including children and relatives that constrain the woman's set of choices.

Local institutions in the form of unwritten tradition as well as formal laws set the rules on social behaviour that defines the value of women in society. The matrix example shows that women receive restricted education and credit information due to customs and beliefs that regard women as "property" and unproductive members of the family/society (see for example Ellis / Manuel / Blackden 2006, 19). Since change is very slow in the 'Embeddedness' level, there is not much short-term policy can do to influence extant culture. Moreover, many researchers agree that despite the accumulation of vast literature on this level of society, there still remains a huge black hole for theoretical specification and intervention (DiMaggio 1994; Granovetter 1985).

In the 'Institutional Environment' level, legal constraints refer to legislation that explicitly prevent women from social participation while informal constraints pertain to the banks' general perception that women are not potential customers for credit markets (see for example, Ellis / Cutura 2007, 6). Because formal rules in the form of constitutions, laws, property rights are introduced at this level an opportunity for first-order economizing is possible: to get the Institutional Environment Right (Milagrosa 2007, 22–25). This means, research and policy makers can approach problems in this level by properly designing the function of government, the distribution of powers across the regime and defining the property rights and contract laws (Williamson 2000, 598). Much of the economics of property rights is of Institutional Environment types.

Transactional and economic constraints to women's access to credit can be classified under 'Governance Structures' because it illustrates how credit markets for women are organized based on the rules that are set up in the Institutional Environment. Economic obstacles refer to situations where women in the developing world are left to undertake economic activities which are highly labour intensive but produce low returns or when it is considered to be humiliating for male agricultural workers to be paid the same as females workers, for the same job (Chen 2004, 12; Rojas 2005, 1). Transactional obstacles refer to the actual lack of access to credit of the woman as an individual and lack of control of household income because of the perception that men manage household money and economically independent women are viewed in a bad light. In this level it is possible to get the Governance structure right by reorganizing transactions in order to re-shape incentives, mitigate conflict and realise mutual gains (Williamson 2000, 599). This means, for example, lobbying for equal payment schemes between men and women, for equal level work.

At the Resource Allocation level, the problem of income allocation is an issue many women face. Whether the income is from the woman's own efforts or for the household, its allocation as a re-investment to augment women's enterprise or to supplement family consumption is not the women's decision alone. In many parts of the world, husbands

Table 2: Gender-based obstacles in access to credit for women				
Institutional Level	Individual	Household	Community/National	Constraint
Embeddedness 	<ul style="list-style-type: none"> • Lack of education & skills • Lack of information and experience on how to obtain credit 	Traditionally limited role of women in decision-making within household	<ul style="list-style-type: none"> • Beliefs / traditions that categorize women as “property” or minors in society • Constrained women’s mobility • Perception that economically independent women ruin families • Customs restrict women’s ownership rights 	Religious / Cultural / Traditional
Institutional Environment 	Women are not aware or lack confidence to claim rights	Lack of protection (statutory and customary) of women’s rights to jointly owned assets.	<ul style="list-style-type: none"> • Women’s equal rights to assets that are useful for collateral are not defined or implemented • Banks do not see women as potential market • Formal rights to land ownership are lacking / weak 	Political / Legal
Governance Structure 	<ul style="list-style-type: none"> • Women undertake activities that produce low returns • Lack of access to credit from banks in own right • Limited monetary support from informal credit 	<ul style="list-style-type: none"> • Unequal access and control of land, labour & inputs • Gender division of labour (domestic, agricultural and manufacturing) 	<ul style="list-style-type: none"> • Women underpaid for equal work and are locked in low-paying jobs • Stereotypes of economic role of women in society • Perception that men control money / men decide • Women borrowers/ entrepreneurs not taken seriously 	Economic / Transactional
Resource Allocation 	<ul style="list-style-type: none"> • Lack of control over own income • Decision-making on money allocation for business or for family 	<ul style="list-style-type: none"> • Men decide on how household money is allocated • Household credit channelled to husband 	Community credit resources available for women-borrowers are few	Resource
Source: Adapted from Johnson (2007, 1); Williamson (2000, 597)				

have the power to make income allocation decisions for all incomes that go to the house. The same holds true for credit; unless the source explicitly caters to women borrowers, household credit is normally channelled to the husband's name. This mirrors an even bigger social issue, the lack of adequate institutional sources of credit that cater especially for women. There is a low community-based commercial supply of financial resources for women despite the high demand. This is due to the fact at the Governance Structure level, commercial banks take women clients less seriously than men.

The matrix shows that credit access for women is a multidimensional institutional phenomenon. The constraints women face interact and reinforces each other because it branches out from the individual to the society and back. For example, a woman may be able to overcome financial and legal constraints at the community and national level to obtain credit, but when basic education and skills are lacking, this may overpower women's attempts to participate productively in the economy. The table also shows that there could be more basic impediments that create binding constraints to women entrepreneurs. These include social norms with regards to women's education or weak national laws that do not elevate women's status in society. This only means, a strategy that aims to address women's lack of credit access need to use an approach that targets the various sources of discrimination at their respective social levels.

4.2 Property rights for women

Land is important to many of the world's poor countries because of the predominance of agriculture in the economy. Secure land through secure property rights have been empirically shown to positively affect investment and economic growth⁵. Studies in different parts of the world show a positive correlation between secured land title with increased agricultural investments and outputs (Jacoby / Li / Rozelle 2002; Besley 1995; Feder 1988). Freeman / Lindauer (1999) even stress that *"there is no single recipe for achieving economic growth, but there is one way to prevent growth: through instability and the absence of property rights."* Among the many inquiries about property rights that have been conducted through the years, the absence of property rights as a symptom of poor institutions and the cultural and institutional grounds for women's lack of land ownership emerged as one of the most widely researched and promising areas for reform. This was the academic world's response to the recognition of the significance of institutions in social analysis and to the recognition of the economic and social importance of women.

Several studies support women's access to land and its positive effect towards increased private investment, rapid economic growth, poverty reduction and women's empowerment (Cutura 2007, 7). When women's land and property rights are recognized, gender equity increases, and with it, the perception that women are able to participate fully in economic growth initiatives (Rojas 2005, 2). Rights to property empower women by increasing women's status and bargaining power within the household and community. It gives women incentives to adopt sustainable farming practices and invest in natural resource management (Meinzen-Dick forthcoming). Property rights for women also allows more land to be put into the economic process, thereby making land a valuable asset with an accepted market price (Tuvdendorj 2007, 1). Women who are allowed to use land as col-

5 For investment see Besley (1995), for growth Keefer / Knack (1995).

lateral manage to lessen their credit constraints, increase their investment and augment productivity (Besley 1995). This was confirmed by studies in India, Honduras and Nicaragua that show that higher investment in children's health and education are associated with women's access to property (Ellis / Cutura 2007, 6).





Meinzen-Dick et al. (1997) elaborated the number of pathways for acquiring and transmitting property rights. These are (1) market purchases (2) inheritance, in-vivo transfers or gifts (3) labour or other investment in improving the resource (4) use over a period of time (prior appropriation) (5) receiving the rights from the state and (6) membership in a community (especially communal or property regimes). Toulmin (2005, 32–33) cautions however, that establishing property rights through prior appropriation contradicts other rights, particularly those who originally purchased or inherited the land. This was observed in the cash crop areas of Burkina Faso, Ghana, Mali and Côte d'Ivoire where substantial numbers of migrant farmers who claimed rights as long-occupation tenants clashed with first settlement owners. On the other hand, land acquisition through allocation by the local or national government have been inefficient because they are at high risk from corrupt practices, as was observed in Latin America.

In modern societies where statutory law and the Institutional Environment allows for women to legally own property, female land acquisition through contractual arrangements, inheritance or market purchases is common. In developing societies such as Ghana and most of Sub-Saharan Africa, the most common ways to acquire rights to land are through (1) lineage or inheritance, (2) marriage, or (3) by contractual arrangements (Dowuona-Hammond 2008, 3). This shows that despite the fact that most developing countries have worked to enhance property rights in recent years, many women still lack full transfer rights (Sompolvorachai 2006, 2). In spite of the higher participation and significant contribution of women in all farming activities, women still have to request their husbands or male relations for permission to use the land for production purposes (Fabiya et al. 2007; Ellis et al. 2007b). Virtually everywhere, land tenure systems discriminate heavily against women making it harder for them to enter and flourish in commercial and economic activities (Sen 2001, 2; Deininger 2003, 1). Kameri-Mbote (2006, 43–44) contend that there are four general factors that influence the *context* within which women's access to land occurs. The factors can be ranked according to the institutional framework forwarded by Williamson (2000) as shown in Table 3.

Like credit, institutions determine women's access to land. The first factor identified in Table 3, where gender is perceived as a social construct can be traced to the Embeddedness level of institutions. In this level, the roles and realms of operation of men and women are set and translated into power relationships where masculinity and femininity roles differentiate entitlement to resources. This is shown in a World Bank study commissioned by the Government of Kenya that reflected how negative attitudes towards women's land acquisition run deep in the people's culture. Women are traditionally considered to "come after a man" and therefore their inheritance rights should be treated accordingly (Ellis et al. 2007b, 22).

The second and third factors identified by Kameri-Mbote (2006), the legal orders and patriarchal social ordering, are both located in the formal and informal Institutional Environment, respectively. Legal orders that explicitly or implicitly discriminate female property ownership still exist in several countries. These reinforce the preference of land rights for male members of society. For example, in the Kenyan study, the World Bank surveyed a total of 75 laws governing land. Although legislation did not clearly prevent women

from owning land, the laws were found to be outdated, obsolete and conflicting with each other. In addition, land regulation deal with only a minority of total land area in the country because the rest of arable land is either owned by the state or governed by customary law (ibid, 23). Formal land registration practices in the country as well as the allocation of government-owned land have also effectively excluded women in the process. Registered plots tended to be registered under one name – that of the male family member whereas the patriarchal patronage system of Kenya means that women will benefit very little from the private allocation of state land.

Table 3: Gender-based obstacles in access to land for women		
Institutional Level	Factors Influencing Women's access to Land	Constraint
Embeddedness	<ul style="list-style-type: none"> • Conceptualization of gender as a social construct • Traditions customs beliefs and religion have negative perceptions or explicitly prohibit women's ownership of property 	Religious / Cultural/ Traditional
 Institutional Environment (Formal)	<ul style="list-style-type: none"> • Different legal orders used to allocate resources with direct and indirect negative effects to women • Lack of or incomplete national laws with regards to women's access to and rights over land • Gap between law and reality (implementation and sanctions) 	Political/Legal
 Institutional Environment (Informal)	<ul style="list-style-type: none"> • Patriarchal social ordering makes access to resources in favour of male members of society • Patri-lineal inheritance systems and statutory laws that favour male ownership of properties 	Social
 Governance Structure	<ul style="list-style-type: none"> • Globalization and technological development impact access, ownership and control of land • Formal transactions do not recognize women's rights of ownership to land 	Technological
 Resource Allocation	<ul style="list-style-type: none"> • Time allocation – Despite bearing the brunt of domestic tasks, women still need to contribute to food crop production to ensure household food security • Income allocation – Women have disincentive to expand agricultural production because they do not control household income from cash crops 	Resource
Source: Author's own		

The fourth factor identified, which refers to the manner in which agricultural production is conducted, is located at the Governance Structures level. As a result of technological development, women may be further displaced from claiming rights to land. This is because; several new processes that are introduced (for example, labour-saving technologies for land clearing) replace the traditional roles and responsibilities that women perform in the production process. In many cultures, traditional female roles and responsibilities that are

attached to land-based production establish and reinforce women's land rights (Meinzen-Dick et al. 1997). Therefore, when new technologies that replace women's functions are introduced to agricultural societies, these could have substantial negative effects on women's claim to property, and equally negative effects towards their economic development and empowerment.

This paper forwards two items at the Resource Allocation level that strongly impacts women's access to land, but was not postulated by Kameri-Mbote in their 2006 article. Marginal changes in the allocation of resources such as time and income also affect women's access to land and property. For example, time allocation for agriculture-based activities is a trade-off issue for many women who assume "double workdays" because they need to balance domestic tasks with non-domestic productive activities during the day. Income allocation within the household affect women's access to land since women who do not control family income from agriculture face diminished economic incentives to expand agricultural production. As a result, women would rather contribute labour to food crop production than to cash crop production to ensure household food sustainability.

In many developing countries, women have few inheritance rights, whether by law or custom (Ellis / Cutura 2007, 6). For the rest of the developing world where customary law is followed, women's access to land is still processed through traditional land tenure systems, inheritance practices and land use patterns. A study of the Food and Agriculture Organization of the United Nations (FAO) in the Volta Region of Ghana showed that despite the general opinion that Ghanaian men and women have equal access to land in their communities, women's access rights were less equal than initially assumed (Akua Duncan / Brants 2004, 40). Women possess only secondary rights to land because men are traditionally believed to be custodians of family property. Secondary rights are "very insecure" rights derived from membership in households and lineages secured through marriage (Dowuona-Hammond 2008, 5; Nukunya 1969). The set-up of land rights for women within customary land systems in most of Sub Saharan Africa is in certain ways similar to the Common Property Resources or Common Land Systems in Botswana, India, England, Wales and pre 17th century Scotland. In common lands, people other than the landowner (which could be an individual or the government by default) have traditional rights to access and use the land for productive purposes (Ramanathan 2002).⁶

Upon dissolution of marriage or death of the male spouse, customary law in Ghana transfers land rights to male relatives of the male spouse, even if the woman has been cultivating the land for years (Bortei-Doku 2002, 86). The same is observed in Tanzania, Uganda and Kenya where cultural and customary norms are sustained above the national constitution limiting women's control over land. In Tanzania strong formal legal rights support women's access to land but in at the community level, customary norms continue to influence decisions and practices concerning ownership, control of and access to land (Ellis et al. 2007a, 51–52). In Uganda, systems of patrilineal inheritance, patrilocal residence and other cultural norms deny women the right to inherit land (Ellis / Manuel / Blackden 2006, 51). The constitution strongly protects the property rights of widows but in practice, they

6 The practice dates back in time when the landowner allowed certain groups of people to use the land to gather fish, wood, to hunt, or for grazing purposes. Modern common land systems are more legally complex. In the UK, the Department of Environment, Food and Rural Affairs (DEFRA) calls for caution in legal definitions and uses of common land in light of their history of conflicting and overlapping laws common land laws. In India, community-based collective action has been reported to be used for common property resources.

are likely to be thrown off the land by their husband's relatives when their husband dies. Divorce rules provide women with little legal support while limited land registration and limited access to justice further shrinks Tanzanian women's ability to assert their rights to land (ibid, 52-53). In Kenya, women's ownership of property is governed by statutory, customary and even religious law (Kameri-Mbote 2006, 43). Although formal statute law grants property rights to married women the current constitution exempts particular tribes and certain ethnic groups from its non-discrimination provisions (Ellis / Cutura 2007, 6).

In India, customary rights allows women to inherit land as daughters and wives but these are often challenged by male relatives (and possibly other women), when the inheritance challenges their identity and status (Rao 2005).

Official policies may give preference or equality towards women in terms of acquiring property rights but women may still encounter difficulty acquiring land. Land policies that do not taken women's situation into consideration could overlook female limitations that include among others: limited access to money where legal/illegal administrative payments are needed, lack of knowledge and information due to illiteracy and the distance of the land to the woman's house (Meinzen-Dick 1997, 17).⁷ Thus for many women, customary law is the only law that they have recourse to in accessing land and property. Conversely, not all customary laws are discriminatory towards women. In the Philippines where women are traditionally and legally allowed to inherit property, their position is stronger in society because land is a major determinant of non-labour income (Quisumbing, 1994).

It is because of a failure to understand existing natural resource property regimes that several policies that attempted to shape property rights failed to promote economic growth. The International Food Policy Research Institute contend that property rights include far more than titles and pieces of paper specifying ownership of a defined piece of territory. Property rights encompass a diverse set of tenure roles and other aspects of access to and use of resources (Meinzen-Dick et al. 1997, 1). Rather than observing single owners, researchers and policymakers should look at the complex bundle of rights held by different people of any given resource unit. Rather than individual property rights, Schlager / Ostrom (1992) prefer the rights to access, withdraw, manage, exclude others and to transmit or alienate rights to the resource because men and women often have different rights to use to resource in different ways. In this light, women may be able to have more legitimate claims to land. "*Where women's rights are not stipulated, they are likely overlooked*" (Meinzen-Dick et al., 1997, 21). For this reason, national policies on land rights should attempt to work with the knowledge that there is no level playing field and that there exists differential capacities for land access between genders. Where customary property rights are strong, it is likely to dominate land distribution and ownership. Undertaking policies that aim to improve property rights without examining gender asymmetries in rights, responsibilities and access leads to incorrect conclusions, wasted resources and widening the economic and power gap between genders.

7 *Distance* refers to social and cultural norms in several countries that severely restrict women's movement within public spheres.

4.3 Starting a business for women entrepreneurs

In most countries, regions and sectors, women entrepreneurs are the minority of business owners even with consistent trends that global rates of women-owned business have gone up (Smallbone et al. 2000, 45). In a survey of 29 countries, men were observed to be twice as likely as women to be involved in entrepreneurial activity (Minniti / Arenius / Langowitz 2005; Reynolds et al. 2002). In developed countries like Sweden, 67 % of all nascent businesses were started by men, 28 % by women and 5 % by men and women jointly (Delmar / Davidsson 2000, 7). Where data is available in less developed countries of the Caribbean and Latin America, women constitute about 25 % and 35 % of employers and self-employed persons in the region (Weeks / Seiler 2001, i).

Despite their relatively smaller numbers, women entrepreneurs are essential for economic development. Where women are allowed to operate businesses, female entrepreneurship significantly contribute to employment generation, economic growth, and the diversification of enterprise in the economic process (Verheul / v. Stel / Thurik 2006, 151). In Kenya, women-led businesses contribute up to 20% of the nation's GDP, accounting for 48 % of all micro-small and medium-sized enterprises (Government of Kenya, 1999). The informal sector where 85 % of women's businesses are found, provided most of the 462,000 jobs created annually in Kenya since 2000 (Cutura 2007, 1). A review of women's economic activity and entrepreneurship in Latin America showed that women's participation in business ownership and GDP growth exhibited a strongly positive relationship accounting for up to 19 % of economic growth in the region (Weeks / Seiler 2001, i).

The *Doing Business* 2008 divides the indicator Starting a Business into four categories, namely: the number of procedures, days, as well as the cost and paid-in minimum capital (in percent of income per capita) of business start-up. The ability of the four categories in explaining dimensions of start-up problems and subsequently, rationalizing how their reform can encourage entrepreneurship in general, including female entrepreneurship, remains controversial. Most women entrepreneurs are present in the informal sector, an employment type that practically sidesteps the criteria enumerated above. Case in point is an International Labour Office (ILO) study of almost 400 female-led businesses in Ethiopia, Tanzania and Zambia that showed that despite successfully operating for more than two years, majority of those included in the study *chose* to remain informal and only a handful decided to be registered six months before conduct of the survey (Richardson / Howarth / Finnegan 2004, 38).

According to the World Bank, complicated and time-consuming laws create longer and costlier business start-up, resulting in fewer private businesses and fewer formal registrations. In Tanzania, business-related laws cover areas concerned with company legislation, business name registration and business licensing (Ellis et al. 2007a, 42). In Uganda, the laws that make starting a business more complicated involves company formation and registration, business name registration, obtaining an investment license, and obtaining trade license (Ellis / Manuel / Blackden 2006, 38). However, it is not only the multiplicity of laws concerning registration procedures that hinder business start-up. Weeks and Seiler (2001) noted women's access to resources (information, training, technology, technical assistance, capital, markets, networks) and validation (being taken seriously) as factors identified by Latin American female entrepreneurs as necessary to grow their businesses. Using data from Global Entrepreneurship Monitor (GEM), Verheul et al. (2006) discover that differences in male-female entrepreneurship could be traced to differential effects of unemployment and life satisfaction among men and women. Delmar / Holmquist argued



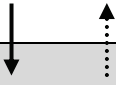
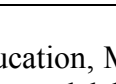
that enterprise start-up problems for women can be traced to type of education, lack of role models in entrepreneurship, gendering of entrepreneurship, weak social status, competing demands on time and access to finance (Delmar / Holmquist 2004).

So far, the paper has discussed various institutional and cultural factors that influence the process in which women start businesses. In Table 4, these factors are presented and are depicted within the social structure in which they are formed. Items associated with the upholding of traditional feminine roles in society highly relate to cultural factors at the Embeddedness level. Deep rooted cultural values and perceptions with regards to female-led businesses influence social behaviour and directly impact the ease of starting businesses of women's entrepreneurs. Aside from traditional beliefs that refrain women from participating socially and economically in public, other cultural precepts come in the form of negative communal perceptions regarding female entrepreneurship (Davidsson 1999). In many societies women entrepreneurs are viewed negatively. Other cultures perceive women as lacking entrepreneurial skills, making it harder for them to convince lenders, business partners and future customers of their seriousness and credibility with their business. The negative perception makes women less likely to register their businesses (Cutura 2007, 2).

At a lower level, government policies and interventions represent institutional features that influence women's business regulatory environment. Within government policy interventions, Verheul et al. (2002) distinguish between intervention methods that approach from the demand or from the supply side. They argue that by creating or reforming policy pertaining to deregulation of registration, duration and costs, the government tries to influence the number and accessibility of entrepreneurial activities on the demand side. However, the government could also attempt to influence capacities and preferences of individuals and women from the supply side by providing women the necessary information, improving their access to finance and directly introducing aspects of female entrepreneurship to them (Verheul / v. Stel / Thurik 2006, 160). The authors contend that these supply-side approaches may have the potential to generate more positive and sustainable economic effects than the demand side-approach in the long run.

Aside from institutional and cultural factors, gender biases can be felt by female business-starters by way of economic, technological, and resource dimensions. These factors create significantly different start-up scenarios for men and women, which might not be bridged by reforming business procedures alone.

At the Governance structure level, technological development in the form of new products, new information and communication technologies have the potential to create opportunities for the start-up of new firms (Wenneckers / Uhlaner / Thurik 2002). However, in the developing world, most women tend to operate within the lower-earning segment of the formal and informal economy as self-employed or wage workers (Chen 2004, 10–13). Within the informal economy where women predominate, women were found to be more likely to sell perishable produce or labour intensive products manufactured with the simplest technology. It is mostly men that operate businesses in high technology sectors that are expected to benefit from non-gender-sensitive technological advancement (Anna et al. 1999). In modern non-traditional sectors where women entrepreneurs can be found, access to technology *is* an issue. Weeks / Seiler (2001, 2) report that across Latin America, next to access to capital, access to technology was one of the most important challenges that women business-owners face. While much has been improved with regard to women's

Table 4: Gender-based obstacles for Starting a Business for women		
Institutional Level	Factors Influencing Starting a Business for Women	Constraint
Embeddedness 	<ul style="list-style-type: none"> • Deep rooted negative cultural values towards women entrepreneurs and financially independent women • Economic activity just in traditional “female” sectors 	Religious / Cultural / Traditional
Institutional Environment 	<ul style="list-style-type: none"> • Government Policy Interventions that influence business start up from demand side: deregulation of registration procedures, duration and costs 	Political / Legal
	<ul style="list-style-type: none"> • Government Policy Interventions that influence business start up from supply side: providing women with necessary education, information, skills and capabilities, improving access to finance 	
Governance 	<ul style="list-style-type: none"> • Technological development that makes women’s work redundant • Economic factors such as high national unemployment rates and size of the service sector • Rent seeking behaviour from government officials 	Economic and Technological
Resource Allocation 	<ul style="list-style-type: none"> • Capital source and allocation (financial, human, physical) • Demographic reasons: marriage and parenthood responsibilities versus entrepreneurship and business 	Resource
Source: Author’s own		

education, Malaysian, Indian and Bangladeshi women are still concentrated in low skilled jobs and labour intensive operations requiring little education and previous experience (Asian Development Bank 1998). Hence, technological development per se, does not automatically imply development for all. As the examples showed, technology or regulations aimed at advancing technology needs to be specifically targeted towards women to create socio-economic impact.

When there is little chance of finding paid employment elsewhere, a positive “*push*” effect towards women self-employment occurs (EIM / ENSR 1997).⁸ This was observed in Indonesia where people responded to high unemployment by starting “necessity” entrepreneurship in the form of small-scale enterprises. Women are thus likely to be negatively affected by national unemployment levels because women work mostly in service-type, part time, low skilled jobs, which are the frontline sacrifice when workers need to be laid off. On the other hand, the size of the service sector has been positively related to the level

8 With this example, Verheul / v. Stel / Thurik (2006) note that an increase in entrepreneurial activity does not necessarily imply economic stability.

of female entrepreneurship. Weeks / Seiler (2001) contend that women entrepreneurs are less involved in manufacturing or production of goods and are more into service-oriented, so-called “feminized” occupations. This is illustrated by results of an ILO study of female entrepreneurship in Africa shown in Table 5 below.

Table 5: Female-led businesses based on “sector” type (in %)			
Sector	Ethiopia	Zambia	Tanzania
Trading	33.1	–	30.1
Services	30.5	30.4	43.9
Manufacturing	25.4	43.8	14.6
Others (across sectors)	11.0	25.8	10.6
Handicraft	–	–	0.8
Total	100.0	100.0	100.0
<i>N</i>	128	128	123
Source: Richardson / Howarth / Finnegan (2004, 39)			

Although other literature classify wholesale and retail activities as belonging under Services sector, the ILO differentiated “Trading” from purely “Services” sector. The latter consists of the provision of personal or business services such as those found in entertainment, health and beauty, restaurant, hotels, and hospitals. Reforms tailored for the growth of the service sector would lead to a higher share of services in the economy and is more likely to positively influence female entrepreneurship (Verheul / v. Stel / Thurik 2006). That female entrepreneurship is more strongly manifested in the informal sector is already established. Women dominate the informal sector not only for reasons of ease of entry (due to minimal education and skills requirements) but also because informal employment entails relatively easy “close-to-home” type of work with little or no fixed time requirements. Women are still seen as nurturers who carry the added burden of family and domestic responsibilities, creating a detrimental impact upon the time needed to generate income in parallel (Richardson / Howarth / Finnegan 2004, 1).

The sourcing and allocation of human, financial and physical capital is another hurdle that challenge women entrepreneurs. Capital itself is difficult for women to acquire. However, when capital becomes available, women now need to choose between domesticated or business life. It is for this reason that in Resource Allocation level, demographic factors, such as the family situation of women heavily dictate whether women will start businesses or not. Although worldwide patterns of declining average family size and delayed age in marriage is observed (see Todaro / Smith 2006, Chapter 6), marriage and parenthood still negatively influences female participation in the labour force – hence, female entrepreneurship (OECD 2002). Women-led enterprises are compromised in the developing world where traditional roles of women as the “*primary parent and housekeeper*” is still strongly complied with (Unger / Crawford 1992).

4.4 Female employment

Aside from the significant contributions of women's economic participation, having paid work was empirically proven to serve as women's source of self-worth, dignity and well-being (Jose 2004, 2; Chen 1995, 54; Kabeer 2000, 189). Female employment reduced female economic dependency in the household, increased women's decision-making power, autonomy and output and reduced female poverty (Sen 1999, 201; Tzannatos 1999, 552). Empirical research shows that economic growth is higher if gender discrimination in labour and employment is reduced (Khotkina 2005, 1). Women's work motivates positive social changes such as increased women's mobility, increased exposure to the outside world and weakened attachment to discriminatory social norms. In fact, researches show that women who are economically independent are more receptive to modern healthcare, including birth control measures (Dreze / Sen 1995; Sen 1999).

Worldwide data between 1970 and 1990 showed a tremendous increase in the absorption of women in the labour force. In a span of two decades, South Asia experienced a leap in female employment, in the service and lowest end of the informal sector, from 25 to 44 percent while Latin America showed an increase from 22 to 30 percent (Jain 2000, 16). The ILO (1997, 21–23) reported that labour force participation rates in the informal sector for African women in 1990 ranged from 10 % in Mali to 48 % in Burkina Faso and Burundi. For Sub-Saharan Africa (excluding South Africa) the average rate was 30 %. Unfortunately, formal sector employment among women didn't enjoy the same unprecedented upsurge as informal sector employment. Worldwide, women are still marginally represented in the formal sector as wage earners or entrepreneurs. This was substantiated by a UNDP study that showed that Kenyan women, despite constituting 53 % of the labour force, occupy only 30 % of modern sector employment in their country (1999). In Central and East European Countries (CEE) undergoing transition, changing the main parameters of the labour market in the course of earlier market reforms was reported to first and foremost negatively affect women's formal employment. The sharp decrease in the number of gainfully employed women in the formal sector of countries such as Czech Republic, Slovakia, Bulgaria and Russia was mostly the result of gender discrimination (Khotkina 2005, 3).

Explanations for the existence of gendered labour markets are not new. As early as the 1970's Boserup wrote of employment discrimination based on gender. She reported that for Hindus, Arabs, and Arab-influenced countries in Latin America, despite the fact that trade is huge source of income, market trade governed by women was considered "an abomination" (1970, 75–79). With regards to formal employment, Boserup noted that in all developing countries at that time, women account for less than 1/5 of employees in industrial occupations because of a general preference of employers towards men (ibid, 100). The unequal treatment of men and women in the labour sphere worsens the quality of labour resources, hinders social development and lowers the efficiency of economic development (Khotkina 2005, 3).

The World Bank argues that by making labour regulations less rigid, job opportunities are increased, supporting formal sector employment. This way, workers will be easier to hire, allowing businesses to be more responsive to volatile demand markets (ibid, 20). Specifically, the *Doing Business* advocates for reforms that lead to less rigid regulation for working people. The reforms range from encouraging more labour flexibility to facilitate worker transition from one job to another, introducing apprentice wages, encouraging more flexible working hours and increasing retirement age (World Bank 2008, 22). Labour flexibility includes reforms leading to decreasing restrictions in worker discharge,

such as reduction in notice periods before dismissal and reducing costs involved with firing employees. Increasing the retirement age of women can positively affect women's economic status as it allows longer time for women to incur savings and increase their pension rates. For example, Russian women are required by law to retire at age 55 despite the fact that they live 12 years longer than their male counterparts (Ellis / Cutura 2007, 7). Countries who force women to retire early, mostly in Eastern Europe and Central Asia, are not able to fully capture women's productivity because the length of their services is cut short.

In several countries, laws that were meant to protect women workers actually hurt them. Aside from the United Arab Emirates, Yemen, Kuwait and D.R. Congo, Nepalese women are also forbidden to work between 6 p.m. and 6 a.m., except for those employed in hotel, travel, tourism and related businesses. In Lao People's Democratic Republic (Lao PDR), women are not allowed to engage in certain types of manual work (World Bank 2008, 19). In Nepal, girls between 16–18 years old are allowed to carry a maximum of 20 kilograms if required by their job (Asian Development Bank 1999, 35). These countries perceive stringent labour regulations to improve female formal employment and equalize the opportunities between genders (Ellis / Cutura 2007, 7). However, the laws mentioned above, despite their noble intentions, actually reduce formal work opportunities for women and push them towards informal occupations.

Aside from regulations, several researches show that there are informal social institutions that are more fundamental in constraining women's status and their participation in the labour market⁹ (Huffman 2007, 2). The effect of complex informal institutions – which are rooted culturally and institutionally – hinders women's access to resources, which in turn limit their employment opportunities (Jose 2004, 1). Similar to previous sections, the paper argues that reforms pushed by the World Bank in the Doing Business Report would be necessary but insufficient to resolve the issue because there are several other factors, which influence female employment.

To find answers, the African Economic Research Consortium (AERC) commissioned a study that attempted to determine the factors influencing African women's participation in the labour market. Confirming ILO findings of more than a decade ago, the study by Atieno (2006, 8) pointed to commonly known culprits hindering females from working such as access to factors of production, access to credit, information technology and training, the international economic environment as well as changes in the political and social landscape.¹⁰ In addition, Atieno's (2006) study also showed that factors such as expected wage, spouse's earnings, number of children, age and education were constraints which significantly and positively affected women's labour force participation. The study particularly emphasized the importance of increasing human capital through increasing access to and improving education. Education was observed to significantly affect the probability of female labour market participation in general (Atieno 2006; Khotkina 2005). On another study, Maglad (1998) and Makonnen (1993) showed that expected income and previous work experience were critical factors in the decision of women, but were not critical for the decision of men, to work. Another separate study by the World Bank (1995) noted that labour market conditions directly affecting women's income are also important.

9 See for example, Tinker / Bramsen (1976); Semyonov (1986); Jutting / Morrisson (2004).

10 See ILO 1995.

Due to the wide range of socio-cultural aspects affecting women's entry into the labour force that can not be explained by neo-classical economics alone (Khotkina 2005, 2), and due to various problems at the institutional, Governance and Resource Allocation levels that are borne as a result of the socio-cultural factors, the economics of institutions framework presented in Section 3 will be used in Table 6 to systematically analyse factors that influence female employment.

Table 6: Gender-based obstacles for employing women			
Institutional Level	Factors Influencing Women's Employment		Constraint
	Economic	Non Economic	
Embeddedness	<ul style="list-style-type: none"> • Employer bias • "Feminized" and low-paid sectors: services, tourism, health and beauty, hotels, restaurants, garments 	<ul style="list-style-type: none"> • Domestication of women (demographic factors) • Lack of education, training, information, bargaining power and mobility • Negative social perceptions of working women or the quality of women's work 	Religious / Cultural / Traditional
↓ Institutional Environment ↑	<ul style="list-style-type: none"> • General Labour market conditions • Explicit laws preventing women from working • Gaps between law and practice: legal entitlements not practiced at large 	<ul style="list-style-type: none"> • Political and social landscape 	Political / Legal
↓ Governance Structures ↑	<ul style="list-style-type: none"> • Poor working environment: poor working conditions, lack of childcare facilities in workplaces, • Trade union's lack of awareness of working women's problems 	<ul style="list-style-type: none"> • Technological development (versus traditional craft workers) 	Economic
↓ Resource Allocation and Employment ↑	<ul style="list-style-type: none"> • Husband's earnings, expected income and gender wage gaps • Asset ownership 	<ul style="list-style-type: none"> • Time allocation: Decision to allocate time for employment or for family 	Resource
Source: Author's own			

Jütting / Morrisson (2005, 8) argue that the productive participation of women in society could be determined by *economic*¹¹ and *non-economic*¹² factors brought about by institutions. In addition, Huffman (2007) added that non-economic factors operate at the Social

11 The Economic Index suggested by Jütting / Morrisson (2004) specify property, inheritance and freedom of movement and dress as formal restrictions to women's economic participation.

12 The Non-Economic Index suggested by Jütting / Morrisson (2004) specify female genital mutilation, marriage before 20 and polygamy as historically pervasive variables which have economic consequences.

Embeddedness level while economic factors operate at the Institutional Environment level. Testing a dataset of 65 developing countries, Huffman's results show evidence that informal and formal restrictions in the form of percentage of married women under the age of 20 and property rights, respectively, have significant negative effects to a nation's economic performance (*ibid*, 2).

Table 6 shows that economic and non-economic factors influencing women's employment are located at all levels of institutions. For example, employer bias against females is highly related to deep-rooted pessimistic beliefs regarding working women. Patriarchal ideologies relegate women towards a secondary status in family and society, whose primary function is to do unpaid domestic tasks and care-giving activities instead of earning paid income (Ruwanpura 2004, 5). On the other hand, men have are looked up with the task of working in activities that are both valued and paid. In Russia, discrimination among women in the labour market was reported to begin with employer's advertisement for vacancies, where the potential worker's sex, age and appearance are stipulated (Khotkina 2005, 3).

Working women are believed to be less reliable and higher costing than male counterparts – exhibiting higher rates of absenteeism, lower production turnover and lack of flexibility. It is for this reason that employers in primary sector jobs that offer job security, career advancement, good pay and good working conditions, prefer men (Anker 1997, 321–323). However, studies in Sri Lanka, Cyprus, Ghana and Mauritius show that the average difference of absences for male and females is marginal and that production turnover for both sexes are similar (Anker 1997, 319). It is the same patriarchal norm that impinges constraints on society, resulting in the feminization of certain sectors that provide formal employment. The perception of women as nurturers and housekeepers result in their overrepresentation in formal occupations requiring care-giving, such as nurses, teachers, clerical work and nannies (Ruwanpura 2004, 5).

At the Institutional Environment level, despite the presence of several laws that protect women's interests, welfare and rights, women remain discriminated against. For instance, in many south Asian countries, the law requires employers to provide for equal pay for similar jobs, pregnancy leave, feeding intervals during working hours, and childcare facilities. However, discrepancy in law and in real life was reported in India, Bangladesh, Pakistan, Malaysia and Nepal (Asian Development Bank 1999). Non-economic reasons relating to the general political and social landscape also influence the level of Institutional Environment in women's employment. Employers discriminate against women despite the fact that they are educated and trained, simply because of the assumption that women might not be able to fulfil their responsibilities as employees once they get married or have children. For example, in Peru, a study noted that even with female education levels surpassing male education levels during recent years, there has not been any change in male-female wage differentials (Anker 1997, 331). Another example can be found in Pakistan where, even if women were gainfully employed in the formal sector, they normally have jobs in sectors and services that have contact with mostly other women (Mohiuddin 1997, 179).

At the Governance structure level, social welfare schemes are critical for women's ability to participate in economic activities because childcare benefits and facilities hugely determine female labour force participation. Not only in developed western countries but also in less developed countries, the presence or absence of social services in care-giving determines women's participation in the labour market and their relegation to part-time, low paying,

low quality jobs (Ruwanpura 2004, 1). In many factories in the textile industry of most of Asia, employers do not even attempt to make their working environment attune to the needs of women workers. Most women have no recourse but to accept the lack of provisions in the factories or otherwise lose the employment opportunity (Asian Development Bank 2006).

At the Resource Allocation level, several studies on the employment opportunities for African and Asian provide evidence of the fact that married women and women with kids whose husbands are securely employed are less likely to consider employment. Women whose families are relatively better off by having assets have a tendency to think twice before accepting jobs. Moreover, for educated women who have the luxury of choosing the type of job they prefer, the expected income plays a major role in their decision to enter the labour market (Atieno 2006). As mentioned earlier, in the developing world where traditional roles of women as the “primary parent and housekeeper” is still strongly complied with, marriage and parenthood negatively influences female participation in the labour force (OECD, 2002; Unger / Crawford 1992). The unwritten “social contract” assigning certain distribution of gender roles in the family is still in force in many economies (Khotkina 2005, 6).

5 Gender-differentiated impacts of investment climate reforms

The *Doing Business* believes that companies must possess a degree of flexibility that allows them to create new businesses and capture new opportunities for growth. By simplifying administrative procedures, private enterprises are believed to increase efficiency and employment as well as decrease bureaucracy. Moreover, less burdensome procedures are believed to shrink the informal economy and diminish the likelihood of abuse and corruption (World Bank 2004, xi–xii, xiv–xv). The World Bank contend that regulatory reforms recommended by *Doing Business* Reports are encouraging signs of change for women in business although they also admitted that gender dimensions are not evident in all ten indicators for the 2006 output (Ellis / Cutura 2007, 2–3). The *Doing Business* 2008 indicated several disproportionate barriers facing women in business. These are in areas of Starting a Business, Registering Property, Getting Credit, and Employing Workers. Since *Doing Business* 2008 is the latest and most comprehensive report so far, the paper will focus its attention on the four of the ten indicators used in the latest version. Presented in the following subsections are four of the ten *Doing Business* 2008 indicators, the items measured by each indicator and the potential gender-relevant issues that reforms in these areas will affect.¹³

5.1 Can reforming credit and collateral registries improve women’s economic participation? *Could it increase women’s access to credit?*

To derive the indicator for “*Getting Credit*” the World Bank used four measures, namely: strength of legal rights index (ranging from 0 to 10, with 10 as the best), depth of credit information index (0 to 6, with 6 as the best), public registry coverage and private bureau coverage (both in percent of adults). The “*Getting Credit*” indicator basically measures the

13 A more detailed explanation of the methodology employed for the *Doing Business* Reports is available from the *Doing Business* in 2004 edition.

extent of background information that public credit bureaus have with regards to prospective borrowers, as well as the overall strength of legal rights of borrowers and lenders. On-field experience since the first *Doing Business* in 2004 pointed to five areas of reforms that the World Bank advocates (World Bank 2008, 30). These are:

- Expanding the range of information available in credit registries
- Eliminating legal obstacles to sharing credit information
- Allowing all types of assets to be used as collateral¹⁴
- Establishing registries for all types of collateral
- Allowing out-of-court enforcement of collateral

The rationale behind the reforms is that when banks and other credit institutions know the credit history of prospective borrowers, it is easier for them to permit loans and decide how much interest to charge. In addition, when all types of assets can be registered and accepted as collateral, banks are more willing to lend money to fund productive activities. Thus, for borrowers with good credit histories, and with collateral, obtaining loans will be easier. Countries who reformed in the direction of World Bank suggestions experienced fewer bad loans and thus lower financial risk. With more credit to fund businesses, investment and economic growth are expected to increase. Ellis / Cutura (2007, 6) support that with these reforms, the credit worthiness of women will be finally recognized. Women's access to credit will be increased because valuable information with regard to their excellent repayment records based on microfinance experience will finally be publicly available to banks and other institutions.

The impact on women of the first and second reform, that is, expanding the range of available information in credit registries and eliminating legal obstacles to sharing credit information, is ambiguous. Figure 1 shows a confrontation of the suggested *Doing Business* reform with what is gender-based institutional obstacles to credit as explained in Section 4.1.

Figure 1: Credit registry expansion and credit information sharing versus gender-based institutional obstacles		
<i>Doing Business</i> reform		Institutional gender-based obstacle to credit access
<ul style="list-style-type: none"> • Expanding the range of available information in credit registries • Eliminating legal obstacles to sharing credit information 	<i>Versus</i>	<ul style="list-style-type: none"> • Women's outstanding repayment rates in microfinance are not translated to commercial credit registries • Most women do not have credit histories to begin with

This is because, by including information with regards to telephone and electricity payments or allowing more lenient credit information sharing, the paper does not see how this

14 The *Doing Business* 2008 (page 32) however offers a lengthy explanation on how asset description in collateral agreements are better off generalized so that it will be less costly for small firms, but offers less explanation with regards to the actual reform.

can improve women's economic participation, moreover, their access to credit. This might improve the credit access of women who are already within the system such as those who already obtained loans beforehand, but how these reforms will influence access to credit of the majority of women who are still attempting to source out credit, is uncertain. Put simply, most of the women who would want to avail credit do not have any credit history to begin with. The World Bank itself contends that despite women's outstanding repayment rates in microfinance institutions, these information does not get translated to public and private banks registries. Kenyan women were reported to suffer from discrimination from banks because of the country's lack of financial information sharing system (Cutura 2007, 9). Indeed, the suggestion of the IFC was to establish a credit reference bureau that would facilitate the transfer of information from small micro-credit institutions towards bigger commercial banks. A reform that would allow the transfer of credit information, and not a reform that expands the range of information in credit registries, is more consequential at this point, particularly for less developed countries.

Allowing all types of assets to be used as collateral as well as establishing registries for non-land assets (reform 3 and 4) is particularly seen to be beneficial for women. This is shown in Figure 2.

Figure 2: Allowing non-land assets as collateral in the light of gender-based institutional obstacles to credit		
<i>Doing Business</i> reform		Institutional gender-based obstacle to credit access
<ul style="list-style-type: none"> • Allowing all types of assets to be used as collateral • Establishing registries for non-land assets 	<i>Versus</i>	<ul style="list-style-type: none"> • In some cultures, women mostly inherit non-land assets • In urban areas, women could use accounts receivable, inventory and future assets as collateral • Many poor women in developing countries do not have land to use as collateral

As mentioned earlier, the experience in Ghana shows that patrilineal inheritance systems create a situation where most women are devoid of land as assets, because a distinction is made between male and female properties (Dowuona-Hammond 2008, 7). Under this system, women inherit the homestead and jewelries whereas the men inherit land. By creating reforms that allow women to use homes and jewelries as collateral, and putting up registries for non-land assets, women entrepreneurs from rural communities will also be able to have access to financial resources like their male counterparts. In urban areas, women entrepreneurs are also seen to benefit because the reform calls for the acceptance of accounts receivable, inventory and future assets as collateral (World Bank 2008, 32). The World Bank acknowledges that the last reform – allowing out-of-court enforcement of collateral – is one of the toughest reforms to create and implement, as both the borrowers and judiciary are opposed to this (ibid, 33). Figure 3 shows the possible implications of a policy that allows out-of-court collateral enforcement.

Figure 3: Out-of-court collateral enforcement versus gender-based institutional obstacles		
<i>Doing Business</i> reform		Institutional gender-based obstacle to credit access
<ul style="list-style-type: none"> • Allowing out-of-court enforcement of collateral 	<i>Versus</i>	<ul style="list-style-type: none"> • Huge possibility that the only asset women have will be immediately taken without due summary procedures • Because women's formal rights to land are weak or poorly defined in many societies, out of court collateral enforcement might strengthen women's status as secondary / minor citizens of society • Many women are still far from being aware of their rights and, even if aware, women lack confidence to claim rights • Without proper monitoring, this reform is prone to abuse by people in power

According to the World Bank, one way to revolutionize credit and make it widely available, particularly for women, is to enforce out-of-court collateral enforcement. However, the World Bank acknowledges that reforming laws pertaining to credit, in particular, allowing out-of-court enforcement of collateral, is one of the toughest reforms to create and implement, as both the borrowers and judiciary are opposed to it (2008). This is because summary proceedings that give lenders sufficient legal authority to enforce collateral when a borrower defaults is prone to abuse and exploitation. The reform may facilitate obtaining loans in the beginning, but doesn't account for borrower protection in the event that the loan remains unpaid. The reform allows creditors to both seize and sell collateral *out-of-court* without restriction.

The World Bank argues that even women borrowers will benefit most from the reform because creditors are more likely to lend them money when creditors know that they can enforce collateral upon default. As an example in the *Doing Business* 2008, the World Bank cited India where out-of-court collateral enforcement was in effect. The time it took to enforce collateral fell from nine years to as little as six months (World Bank, 2008). However, in a study submitted to the Asian Development Bank (ADB), OECD and the World Bank, PricewaterhouseCoopers in India reported several legal challenges in this regard as early as 2003. A tremendous outcry among borrowers hailed out-of-court enforcement as against the principles of Indian Natural Justice. As a result, "*a number of petitions are currently pending before the Supreme Court that challenge the right of lenders to take over and sell the borrower's assets with limited opportunity to borrowers to challenge the action in a court of law*" (Puri 2003). This shows that when borrowers and creditors fail to reach an agreement with regard to debt settlement, there might be a need for courts to intervene in the end, an event that could have been prevented if courts were used in the enforcement of collateral in the first place.

Women in the developing world could experience a setback in their remaining few legal rights when this type of reform is institutionalised. Instead of increasing women's access to credit, this reform could actually discourage women from borrowing because of the fear that their small holding that was used for collateral will be quickly disposed of in the case

of a simple delay in repayment. As compared to court arbitration, arguments that will allow the borrower to extend payment duration will be non-existent in out-of-court debt settlements. This is a real threat for women borrowers whom banks do not take seriously to begin with. It might trap women entrepreneurs into microfinance, which, as mentioned earlier, is not always sufficient to expand businesses. Out-of-court debt enforcement could push more women into poverty and expose women borrowers to more exploitation.

What are other binding constraints to women's access to credit? Gender-based obstacles in access to credit for women originate from the Embeddedness level and transcends until community/national dimensions. Based on discussions in section 4.1 women's lack of access to credit stems from *negative beliefs or norms with regard to women and finances as well as and a general lack of assets that could be used as collateral*. However, what is noteworthy in this respect is how the "credit game" is played at the Governance structure level. Women worldwide report *lack of validation from credit institutions*, that is, they are not being taken seriously as independent borrowers. Another binding constraint is the *lack of, or weakness of government interventions* in this area. The government could intervene at the higher Institutional Environment level by creating laws that allow for equal treatment of men and women by banks and other finance institutions. This however, is not enough. In addition to laws that promote gender equality among borrowers, the government could begin with:

1. Create a system that facilitates repayment records, credit history and information transfer from micro credit institutions to formal banking sector
2. Open up subsidies or special programmes with funds reserved especially for women borrowers so that banks will focus on female entrepreneurs
3. Create and implement credible and enforceable sanctions against banks that discriminate against women with sound business plans and projects

The idea comes from a carrot-stick principle. It is not enough that the government creates laws that level the playing field between men and women in credit access. On the one hand, the government should provide incentives to financial institutions in order to encourage them to take up more women borrowers in their accounts. On the other hand, the government should also demonstrate credible and enforceable sanctions against institutions that continue to discriminate against female borrowers. This situation is ideal for countries with institutions finding ways to mainstream or strengthen gender equality in the areas of credit.

As women's access credit is intimately tied up with the presence of collateral, this issue will be taken up again in the next section where reforms with regards to property registration are discussed.

5.2 Can easier property registration procedures increase women's economic participation? *Could it increase women's access to land and property?*

To measure "Registering Property", three aggregated indicators were used. These are: the total number of procedures, the time in days and the total cost of property registration as percent of property value (World Bank 2008, 24). "Registering Property" measures the ease of formally registering land and property in order to obtain a document or title that is

legally recognized. According to the World Bank, the five most effective reforms that smoothen property registration are as follows (ibid, 27):

1. Simplifying and lowering property registration fees
2. Introducing fast track procedures
3. Making the registry electronic
4. Taking registration out of courts
5. Making the use of notaries optional

Following de Soto (World Bank 2008), the World Bank maintains that property registration is good for entrepreneurs because with formal property titles, they can obtain mortgages for their assets, and use this to start businesses. By making reforms that facilitate property registration, more lands will be registered, increasing access to finance and opportunities to invest (ibid, 24). By making property transfer cheaper and faster, existing businesses can expand while new businesses can boost much-needed capital. Empirical results also show that registered property was observed to increase in value leading to increases in investment and access to credit (Field 2006; Feder 2002). Poor women's access to finance is said to improve with easier property registration procedures because they can use the property as collateral (Ellis / Cutura 2007, 6).

That property ownership brings unprecedented benefits to women, and in particular, to female entrepreneurs is unambiguous. Earlier it was mentioned that poor women who have access to property were reported to have increased investments in the household, particularly in their children's health and education (Ellis / Cutura 2007, 6). Women with rights to property find themselves having more bargaining power within the household and community (Meinzen-Dick, forthcoming). However, the critical step in question here, is the process by which women actually register the land or property under their name, or in co-ownership with the husband, and later, to be able to transfer property ownership using their singular legal rights. Further down the line, the expected benefits of titled property, that is, of credit availability for women is another matter. To see if the World Bank's suggested business regulatory reforms affect women's access to and rights over land and property, it is necessary to examine the factors affecting women's access and rights to land and property, and confronting it with the reforms.

Women all over the world generally have poor command over a range of productive resources, including land. Among the minority of women who manage to own land, many register smaller land holdings compared to men (Toulmin 2005, 5). In Table 2 it was argued that there are several interlocking institutional factors that influence the intricate relationship between women and their ownership over property. It was also argued that most of female discrimination with regard to land and property ownership stem from the Embeddedness level – from customs, beliefs, and social norms that explicitly prohibit women from owning land, or negatively perceive women land owners. This situation is further exacerbated by the lack of political and legal support for the issue of women and property rights at the Institutional Environment Level. And, because there are few or no rules that attempt to equalize women's land ownership with regards to men's, transactions at the Governance structure level still reflect society's discriminatory stance against female land ownership.

The first three reforms suggested by the Doing Business are highly interrelated. In a way, by simplifying and lowering registration fees, introducing fast track procedures and making registry electronic, registering property will be made easier and faster. With the three reforms alone, many marginalized sections of society such as women and the poor, will be encouraged to legalize property ownership. In a manner resembling Peruvian economist de Soto's famous thesis on land titling, the World Bank argues that easing property registration allows "dead capital" to be brought into the economic process, so that people could gain access to finance and increase investments (Fernandes 2002, 2). Women are seen to gain equally or even more gainfully from this exercise because by removing complex processes, reducing costs, and speeding up registration, land titling and legal ownership becomes easier for them. One successful example is Peru's land titling experience, where two thirds of the 1.3 million registered land in the 1990s went to women (World Bank 2006, 29, 31–32). However, due to a wide range of institutional variation among states, this feat could not be assumed to be accomplished in other countries as well.

In other parts of the world individual and private ownership may even prove to exacerbate the current difficulties women face in gaining access to or controlling land and resources (Toulmin 2005, 45). Take for example Africa where most of land tenure systems – social relations established around who, what and how land could be used – are customary. Access and control to land are based on marriage and inheritance laws and practices. Gender plays a significant role in Africa's kinship systems and is a fundamental factor in socio-cultural structures, values and practices because it determines who possesses land rights in customary tenure systems. When Western-style land titling and privatization methods were introduced in parts of Africa, male community leaders and male household heads were the ones who benefited and acquired total legal ownership of household land. Women who in formerly traditional land tenure systems had little rights but could still insist on legal and moral grounds of their access to land and compensation for labour, lost all these rights during transition (Lastarria-Cornhiel 1997, 1318). Policies that advocate generalized privatization involving the transfer of property from the community to the individual cut off many women who could have customary access rights to use the resource for the production of goods and services (Meinzen-Dick et al. 1997, 19). This is because, compared to formal titles, traditional systems recognize multiple users and rights. Citing the Sub-Saharan experience Toulmin (2005, 45) agrees that the introduction of a central registration system for land may actually allow elite groups to assert claims over land which was not theirs under customary law. This further erodes the secondary rights of women, as these rights do not appear in the register and are easier to dismiss. Both authors agree that many of the expected benefits assumed to stem from land-titling in some circumstances may have the opposite impact. Figure 4 presents the Doing Business reforms together with institutional obstacles to women's access to land and property that were discussed in Section 4.2.

The World Bank argues that introducing fast track procedures benefits men and women who want to register property because faster titling procedures makes collateral more rapidly available for businesses. For women who could register land, this is a positive reform because it could make land quickly available for credit purposes for their businesses. The argument however, that by registering land, collateral will be readily available for women land title holders has been widely refuted by several authors.

Figure 4: Simpler, quicker and cheaper property registration procedures versus gender-based obstacles to access to land and property		
<i>Doing Business</i> reform		Institutional gender-based obstacle to land and property access
<ul style="list-style-type: none"> • Simplifying and lowering property registration fees • Introducing fast track procedures • Making registry electronic 	<i>Versus</i>	<ul style="list-style-type: none"> • Individual land titling destroys traditional land tenure systems, community resource systems and threatens women's secondary tenure rights • Experience shows that land titles are registered to male community leaders and male household heads. Few women receive titles. • Many women lack education and skills, and will not benefit from electronic registration.

At this point, before assessing the impact of the reforms on women's access to land, a review of empirical data that show no unequivocal link between land titling, access to credit and investment in countries will be conducted. In 2004, Calderon-Cockburn conducted a nationwide study requested by the Commission for the Official Registration of Informal Property (COFOPRI) and funded by several organizations, one of which is the World Bank. In his approach Calderon-Cockburn reviewed the official registration (formalization) of property in Peru from 1996–2000 by looking at official registration numbers, changes in standards of living, access to loans, and household investments. Citing huge successes such as the connection between improved standards of living and official registration of property (Calderon-Cockburn 2001, 5), the author also highlighted some exceptionally unanticipated results. In Peru, households with officially registered land who gained access to loans were the minority and in fact, decreased in numbers in 1998 (ibid, 6). It was reported that a larger majority of land owners were experiencing “*more difficulties for gaining access to credit institutions, despite the formal registration of properties*” (ibid). During the period of massive land titling in Peru, access to loans decreased and the use of private funds from relatives, friends and informal lenders dominated. Banks who were assumed to freely accept land titles as collateral for borrowers instead used job stability and fixed monthly income as criteria for credit eligibility (ibid). The recommendation to COFOPRI and the World Bank was to review the land registration process. To quote Calderon-Cockburn: “*Empirical evidence suggests that placing emphasis on speeding up the [land registration] procedures...may be useful but not sufficient. Property values do not guarantee a flow of private loans...Public policy must not focus on the massive distribution of urban land titles...without creating financial schemes to link the popular, public and private sectors and connect officially registered properties with the capital market*” (ibid, 9).

Four years later, these findings were confirmed by another study on the Peruvian land titling system. Using the 2750 randomly sampled households of COFOPRI from the World Bank's Living Standard Measurement Surveys, Field / Torrero (2006, 24) uncovered that although land owners experienced 12 % higher loan approval ratings from government banks, there was no relationship between land titles and loan approval decisions from private funding sources. Most importantly, formal land titles were not seen as a guarantee that increases the likelihood of increasing credit from private banks and does not seem to appear to help households to finance micro-enterprise activities (ibid, 25).

In Buenos Aires, another study financed by the World Bank together with the Inter-American Development Bank attempted to examine the effects of property titling on the country's poor. Galiani / Schargroski (2005, 30) did find small effects of land titling with regards to mortgage credit access, and increased investment in houses (roof fixing, wall fixing, fencing, etc) similar to Peru. However, the study found no effects at all with regard to access to other forms of credit. In Ethiopia and Mozambique, Kanji et al (Kanji et al. 2005, 4), observed little or no significant evidence that land titling programs increased the availability of credit among the marginalized section of society. Whether or not land is titled, formal lending institutions considered the land's "marketability" as a criteria for eligibility. They conclude that land registration alone seems unlikely to increase small holder farmer and low income group's access to credit (ibid, 24).

In Thailand, the same phenomenon was observed by Leonard / Ayutthaya (2003, 5) when they examined the country's land titling program which originated in the 1980s as part of Thai government's structural adjustment loan with the World Bank. The first three phases of the property registration project cost a total of US\$ 183.1 million from the Bank and resulted in the issuance of 8.7 million titles. The registration was not without problems. Competing official claims to lands were launched, lands misappropriation to non-resident and wealthy individuals, as well as the inaccessibility of land from their official title holders was prevalent (ibid, 6). Some of the deeds were issued to non existent or dead people, while most of the lands were transferred from local communities to landholders in the cities.¹⁵ Women were further pushed out of the land registration process. In retrospect, several new researchers even hailed the effectiveness of local informal land tenure systems over the new individually held formal rights (ibid, 19).

The World Bank justified the land registration process as a way to stimulate formal credit in urban and rural areas due to resultant increases in value of land. Formal titling was said to double land value and increase access to credit three times (Feder 2002 in: World Bank 2008, 24). In Thailand, although land prices increased by 127 % and access to institutional credit increased 132 %, (ibid, 8), the downstream link towards higher incomes for men and women farmers, was missing. Higher land prices increased barriers to access to land by poor farmers, and land acquisition became a long term debt for new landowners (ibid, 15). Macroeconomic data revealed that chronic indebtedness increased at an average of 40 to 60 % a year while disposable incomes decreased for the lowest income groups. The research argues that *"alleviating poverty begins with an analysis of the problems facing the poor...rather than focusing on mechanisms to unlock further supplies of credit, farmers often need support in reducing their existing debt"* (ibid, 19–20).

Making the registry electronic is perceived by the World Bank as a definite improvement leading towards the efficiency of the land registration process, for men and women. However whether poor countries could allocate scarce resources to establish an electronic land registration scheme in the face of other national matters of concern is dubious. Not only is the financial aspect of setting up a system an issue, but rather, the supply of skilled and knowledgeable workers in information technology and communication and a nationally-linked land registration database is needed.

15 The registration of land to the wealthy elite as a result of land titling programs was reported in Ghana (Akua-Duncan / Brants, 2004; Duwuona-Hammond, 2007), Kenya (Kameri-Mbote, 2006), Ethiopia and Mozambique (Kanji et al., 2005), and in Sub-Saharan Africa in general (Toulmin, 2005).

It appears that the type of women who would benefit from the first three reforms discussed are women who are able to accumulate money and afford to buy land under their name, with full property rights. These women should have stable sources of income and live in urban or peri-urban areas where customary law has a weakened grip. Unfortunately, most of the developing world where land remains untitled is rural and women in these areas have little or no education, low monetary income, little capital, low social status and little bargaining/political power (Lastarria-Cornhiel 1997, 1329). Toulmin (2005, 45) argues that land titles seem to make more sense in situations when customary systems have ceased to have legitimacy or when conflict exists between different groups which can not be resolved by informal institutions, in re-settlement or urban areas.

The last two reforms – taking registration out of courts and making the use of notaries optional – are hailed by this paper as necessary institutional changes to reduce costs and delay in land registration for men and women. In countries where the administrative tasks of several governmental bureaus are overlapping, taking some procedures out of the registration process is needed. Mainstreaming steps in land registration may actually help women reduce superfluous contact from rent-seeking public officials, although as will be argued later in the paper, the main argument that the value-added of public officials and public offices is merely for rent-seeking is not completely justifiable. The interaction of the last two reforms and with institutional constructs affecting women's access to property and land is presented in Figure 5.

Figure 5: Taking registration out of courts and making use of notaries optional versus institutional obstacles to women's access to land and property		
<i>Doing Business</i> reform		Institutional gender-based obstacle to land and property access
<ul style="list-style-type: none"> • Taking registration out of courts • Making the use of notaries optional 	<i>Versus</i>	<ul style="list-style-type: none"> • In several societies, women's mobility is constrained by law or tradition, due to lack of transportation or weak security. With the two reforms, women do not have to travel to the capital or big cities to reach the courts and notaries to register property. • Reduces bureaucracy, reduces possibility for rent-seeking from government officials

In sum, all the five reforms suggested by the World Bank to ease and lower the cost of registering land and property are viewed as significant but not sufficient to increase women's access to and rights over land and property. By making property registration easier and cheaper, women with the financial means to purchase land under their own names (mostly located in urban areas) benefit from the reforms. Unfortunately, for the majority of women who do not have money nor education nor the bargaining power, these reforms were seen to further erode their remaining rights to access land. Studies in Asia, Latin America and Africa, widely differing continents, point to the same result that in the titling process, men and the community's elite received full property rights under their names. Women's remaining secondary rights, which, under customary laws, could still be disputed, were wiped out with formalization. The most important feature of land titling, which is its expected benefits to women of increased access to credit, did not result as positively as assumed. In Peru, de Soto's homeland, studies showed that access to credit did not increase, but rather decreased, even after land titling. Banks did not use land titles

as collaterals, but rather looked at the borrower's ability to repay loans through a steady income. In Thailand, although access to credit increased with land registration, instead of increasing incomes, it further pushed poor farmers into indebtedness.

What are other binding constraints to women's access to land and property? The previous discussion showed that it is primarily *customary laws and women's socio-economic conditions such as lack of education and income* that discriminate against women's access to and rights over land and property. Customs are made tangible through complex indigenous community property ownership regimes, and the general low socio-economic status of women (low education, little income or capital and little bargaining power). These are the most binding constraints to women's access to and rights over land and property.

Institutional economics theory states that changes in the Embeddedness level – where customs, tradition, norms, beliefs and culture are located – can not be influenced by policy alone, as such features of society change at the rate of 100 years or more. What governments can do is to attempt to work along the lines of tradition in order to positively influence women's negative position in society. For example, privatization programs need to be designed in a way that allows women to obtain land titles easily. As the direct relationships of access to land, access to credit and improved incomes is not yet clear-cut, complementary programs should be designed to increase women's access to credit and other inputs to allow females to finally reap the real benefits accruing from the ownership of land titles.

In Ghana, conflicting customary and statutory laws, plus overlapping government programs and formal regulations with regard to land acquisition and ownership has resulted in confusion and conflict with regards to who owns what property (Dowuona-Hammond, 2008). Since almost 80 % of Ghanaian land is held under customary law, the government scrambled to create laws that would enable women to obtain rights to land upon dissolution of marriage, death of spouse and other similar events. However, the enactment of laws alone was not enough to promote gender equality in land administration (ibid, 13). Duwuona-Hammond suggests that at all levels, be it government, civil society or donor agencies, a need to determine and accommodate gender equality in land formalization processes is present. Her research call for donor agencies to assess new approaches to land rights management, building on existing networks and initiatives and the need to support extensive participatory consultation processes with women on land and property rights *prior* to the enactment or introduction of new land laws and policies (ibid, 19). Joiremen (2006, 17) echoes this recommendation from her African property rights research stating that new laws designed to formalize property rights must give attention to both customary law and women's property rights. Similar to Duwuona-Hammond, Joireman warns that the law alone is not the solution unless it is linked with serious enforcement.

In another Ghanaian study, Akua-Duncan / Brants (2004, 49) recognize that developing cheap and easy methods for land registration is not enough to enable women to obtain land rights. Male family members should be encouraged to legally transfer land to women, women should be encouraged to register land once they inherit, purchase or receive land, and local knowledge with regards to women's land rights should be increased through legal literacy programmes. In Kenya, Kameri-Mbote (2006, 46) suggested a move from state- and individual- land ownership towards a type of ownership based on the relationship and role of people with regards to land, in order for Kenyan law and policy to engender women's land rights. A move from formal equality towards substantive equality by addressing the structural barriers that hinder women from access to land is required in or-

der to give women a chance of being rights' holders. In Ethiopia and Mozambique, a study funded by the UK's Department for International Development recommended that in order for land registration systems to actually make an impact on the lives of the marginalised people in society (the poor, women etc), registration systems should take secondary rights consideration. The real issue is not to embrace Western style formalization models but designing land registration systems that secure the rights of marginalised groups in specific geographic and historical contexts (Kanji et al. 2005, 27). Indeed, adequate land tenure security does not always imply ownership in the Western sense. John W. Bruce, senior counsel for land of the World Bank insists that land ownership is not only about individual property but is also about community or group ownership. When replacing established customary property rights systems with national law, Bruce (2004, 1–2) warns of conflict and confusion when the new laws fail to change behaviour. New property rights that intend to use land for capital markets may not translate to increased credit particularly when credit markets are distorted or the credit supply market is in its infancy.

The recommendations of IFPRI which were based on a compilation of gender and resource-based studies flows in the same direction. Meinzen-Dick et al. (1997, 34) suggest that any program that attempts to assign rights through titling laws or land allocation for example, should be checked for overt barriers to women obtaining rights. In many cases, they argue, that legal systems need to be adapted to assist women in obtaining their rights, even if it requires going beyond simple ownership to a recognition of flexible multi-user tenure agreement (ibid, 34). Going against de Soto's arguments, the research of Meinzen-Dick et al. (1997) concluded that "*as institutions, property rights are influenced not only by policies but also by specific history, norms and understandings in society.*" In fact, according to North (1990), changes in property regimes are conditioned by the experiences and expectations of men and women in society.

5.3 Could shorter and cheaper business registration procedures increase women's economic participation? *Could it increase women's entrepreneurship in general and women's formal entrepreneurship in particular?*

The *Doing Business* used four aggregated measures for the indicator "*Starting a Business*". These are: number of procedures required to start a business, total time in days, total cost of starting the business (in percent of income per capita) and the minimum capital needed to start the business (in percent of income per capita, in US\$). Basically, this indicator measures the duration and costs required to begin commercial operations. There are five areas for reform that are most successful in this regard namely (World Bank 2008, 12):

1. Cutting the minimum capital requirement
2. Introducing a one-stop shop for business registration
3. Standardizing incorporation documents
4. Removing outdated formalities
5. Allowing online start-up

The need to simplify administrative procedures with regard to starting a business stems from the rationale that “*when it is easier to start a business, more businesses will start up*” (World Bank 2006, 13). Additional benefits to reforming include increases in investment, the creation of new jobs, the reduction of corruption and the encouragement of enterprise formalization.

Although acknowledging the benefits of benchmarking the efficiency of worldwide legal systems through the *Doing Business*, Mcleod reasons that its methodology tends to mask institutional realities. By offering fundamental explanation on why Indonesia’s regulatory atmosphere functions the way it does, he shows why initial *Doing Business* rankings were misleading and explains why results do not fully describe Indonesian business environment (Mcleod 2006).¹⁶ According to Mcleod, Indonesian private and public sector was shaped by the decades-long Suharto regime that propagated what is called a “*franchise*” culture in business. The multi-branch, multi-level Suharto franchise included the legislature, the judiciary, the military/police, several banks, and state owned enterprises – aimed at keeping the president in position indefinitely, and enrich his cronies (ibid, 20). Officials and offices who took part in this franchise were able to enrich themselves quickly, while those who didn’t participate in “private taxation” were imprisoned or killed. Thus, starting a business in particular and *Doing Business* in general was extremely “*difficult in Indonesia during the Suharto regime because officials and agencies had a strong incentive to make it difficult: their own incomes depended on them doing so*” (ibid, 25). Mcleod emphasizes however, that during this period, the franchise system managed to deliver rapid economic growth and poverty reduction although by the mid-1990s, the system began to deteriorate (ibid, 32). Indonesia’s ranking in the *Doing Business* measures the country’s institutional arrangements, but not actual outcomes, whereas what really matters are the results achieved. Moreover, the country’s dismal ranking is still shadowed by bureaucracies created *intentionally* within the Suharto system, and simply advocating for reforms that make it cheaper and faster to legalize businesses is not going to make doing business any easier.

Using a two-equation model, v. Stel / Storey / Thurik (2006) examined the relationship between business regulation and business formation in 39 countries. They found that the impact of entry regulations on entrepreneurship rates is limited. In “*Starting a Business*”, the group found that only the minimum capital requirement was an obstacle to entrepreneurship (ibid, 14). In addition, the authors found that education provides a critical difference between the determinants of “opportunity” and “necessity” entrepreneurs. Education is critical because individuals with higher human capital have higher rates of starting businesses for opportunity than those who start businesses out of necessity. The authors concluded that based on their research, there is no significant impact of administrative considerations such as time, cost and number of procedures to start a business, on young business formations. The explicit link between business regulations, the speed at which businesses may be established in a country, and economic growth (as suggested by Djankov et al., 2002) therefore needs rethinking. Together with Baumol (1990), they argue that it is more plausible that reducing entry regulations influences the distribution of businesses in the formal and informal economy, and not the total volume of economic activity.

16 Note that Indonesia ranked 144 in the 2006 *Doing Business* Report for “Starting a Business” and 115 in the overall *Doing Business* rankings.

How will the suggested business regulatory reforms affect female entrepreneurship? The interaction of the suggested reforms with institutional obstacles to women entrepreneurs who are starting businesses is presented in Figure 6.

Figure 6: Reforms in Starting a Business versus institutional gender obstacles for women starting a business		
<i>Doing Business</i> reform		Institutional gender-based obstacle to Starting a Business
<ul style="list-style-type: none"> • Cutting the minimum capital requirement • Introducing a one-stop shop for business registration • Standardizing incorporation documents • Removing outdated formalities 	<i>Versus</i>	<ul style="list-style-type: none"> • Supply side problem: Women commonly report lack of financial capital as main constraint in starting businesses, followed by education, skills and networks • Women are more prone to rent-seeking the longer business registration procedures get

Onerous entry procedures were viewed to thrust entrepreneurs towards informal activities, hurting women disproportionately since they make up a considerable section of the informal economy (World Bank 2006, 14). Ellis / Cutura (2007, 3) argue that women are less likely to formalize their businesses when business start-up is costly, complex and long because they are time-poor, less mobile and are prime targets for bribery. They rationalize that the more contact between women entrepreneurs and government officials, the more likely they are going to be harassed. This is the “*tollbooth*” public choice theory that Djankov et al. (2002, 3) following McChesney (1987), de Soto (1990) and Schleifer / Vishny (1998) forwarded with regards to business entry regulation on the background papers leading to the *Doing Business* Reports. The tollbooth theory states that business regulation is used by politicians and government officials to create rents and extort them in return for the favour of giving permits. Although in principle, bribe collection, with the objective to be released from regulation, can sometimes prove to be efficient, in reality, the practice is often inefficient because regulators are disorganized and their policies are distortionary. Djankov et al. (2002) cited the tollbooth in a highway as an example of the negativities of regulation: after the entrepreneur paid the fee to use a road, each town that the entrepreneur passes might be able to erect its own tollbooth. Thus regulation of entry enables regulators to collect bribes from potential business entrants for no social purpose whatsoever, other than their own.

Arruñada (2007) however, cautions against disregarding the value of regulated entry procedures and viewing regulation as a disservice to public interest. He argued, formalization procedures also entail benefits, and these benefits differ across various offices, institutions and countries. Indeed, corruption occurs between entrepreneurs and officials during entry procedures but this does not imply that the problem is of rent-seeking alone, nor that rent-seeking is the most important part of the institutional problem (ibid, 9). Regulation procedures carry useful functions such as providing valuable information that help to reduce future transaction costs and costs of litigation. These are crucial business idiosyncrasies that the *Doing Business* does not manage to capture measure because it focuses only on initial compulsory interactions between entrepreneurs and agents (ibid, 10). For example, in European countries, banks that require deeds of recording and register of rights, both regulations allow for checking of the legal validity of the borrower, incur cheaper operat-

ing costs for loans *in the long run* as compared to banks that require only deeds of recording. Moreover, within Europe, he discovered that the time and costs necessary to foreclose a mortgage are shorter for countries that require borrowers to provide more thorough information than countries that do not (ibid, 12).

Every country will have its own efficient level of business regulations that will not only reduce rent-seeking and make government agencies more effective, but also one that levels the playing field between men and women. Although women are indeed soft targets for bribery from officials and that reforms such as creating a one-stop shop for business registration, standardizing incorporation documents and removing outdated formalities is seen to help with respect to reducing contact (Ellis / Cutura, 2007), the argument above highlights that the elimination of procedures should be done with jurisprudence. The main priority of governments should be **not** to reduce the costs and time needed for business formalization, but rather reduce average and long term transaction costs in all business dealings throughout the life of the business (Arruñada 2007, 22).

Following from results of v. Stel / Storey / Thurik (2006), reforms that advocate for cutting minimal capital requirement is seen as a positive step forward for all women entrepreneurs, and in particular will be instrumental in the formalization of may women-owned enterprises. Access to capital has been heralded as one of the main impediments to many female entrepreneurs who want to start businesses or are already in business (World Bank, 2000; Weeks / Seiler, 2001). Cutting the minimum capital requirement will not only encourage more women to register their businesses, but also, encourage more women to transfer from the informal to the formal sector.

Figure 7: Online start-up versus gender-based obstacles to Starting a Business

<i>Doing Business</i> reform		Institutional gender-based obstacle to Starting a Business
<ul style="list-style-type: none"> Allowing online start-up 	<i>Versus</i>	<ul style="list-style-type: none"> Supply side problem: Many women in developing countries are poor and are not educated. Thus, women do not have access to internet, do not have computers and do not know how to use computers

With regard to online start-up, Arruñada contend that in reality, many governments instead compress and speed up the business formalization procedures instead of actually eliminating them. For example, Afghanistan reached 17th place in the *Doing Business* 2007 in the Ease of Setting up a Business because of reforms that require businesses only three formalities that could be finished within eight days. In reality, up to 18 months are needed to obtain licenses required for operating. Reforms merely postponed most restrictions until after incorporation (ibid, 5). A more compelling example can be found in New York, where registering sales tax can be done online and takes only one day. According to the New York State Department of Taxation and Finance however, persons applying for Certificate of Authority must complete the form DTF-17 (Application for Registration as a Sales Tax Vendor) *at least 20 days before beginning operations* (NYSDTF 2004, 19), otherwise, the entrepreneur faces stiff penalties. If this procedure was included in consideration of business regulations for New York, the US would need to leave its ranking-neighbours Denmark and Iceland (position 3–5), and join new neighbours El Salvador and Sierra Leone (position 57–60) (based on *Doing Business* 2007 ranking). With regard to

women entrepreneurs, this reform is seen as advantageous as long as online start-up is implemented properly, without any additional hidden requirements. Aside from being gender insensitive, online registration procedures need to be user-friendly to give less educated or less experienced women and men better comprehension of how online registration works.

What are other binding constraints to women starting businesses? Earlier, Table 3 showed that at the Embeddedness level, women entrepreneurs may not be taken seriously because of norms that tend to put working women in a bad light. Demographic reasons were also presented as among the binding constraints of women who want to put up businesses. Because of familial and cultural responsibilities, many women find it difficult to become entrepreneurs, and further on, legalize their businesses, when the need to bring up children and supervise their families hangs in the balance. This issue was discussed at many points in the paper. However, many women, whether out of opportunity or necessity, are willing to break out of the mould and put up their own businesses. The next hurdle that awaits them is at the Institutional Environment Level, where the lack of human capital in the form of education, skills and capabilities and lack of access to finances are two of the most basic constraints to women entrepreneurs. According to the World Bank, globally, female-run enterprises tend to lack capital and have poorer access to machinery, technology, fertilizer, information and credit than male-run enterprises (World Bank 2000, 5). More specific to Latin America, Weeks / Seiler (2001, i) identified common themes on what Caribbean and Latin American women entrepreneurs need to grow their businesses. These are: access to information (including training, technical assistance and technology), access to capital, access to markets (domestic and international), access to networks (women's organizations and regional business associations) and validation (being taken seriously and recognized as valid). Women's lack of access to resources, whether human capital or something tangible such as finances or machinery, are basic constraints that the government could resolve by creating and implementing policies that influence business start up from the supply side.

As opposed to *Doing Business* reforms that advocate for policy changes on the demand side of business entry (deregulation of procedures, duration and costs), policy changes that affect supply side of business entry may require longer periods of time to see results. Most governments respond to business simplification reforms because it gives the impression of modernity and speed, shows quick results, and brings in international recognition from donors (ibid, 3, 8). It is for this reason that *Doing Business* type reforms are more popular among politicians. In Kenya, Cutura (2007, 4) cites the importance of education to business success. Her study shows that that the higher the education of women, the higher the level of formal entrepreneurial activity. More telling are the findings of Minniti / Arenius / Langowitz (2005) that showed a strong correlation between women's belief in having the knowledge and skills and their actual likelihood of starting it. Thus, there is again a need to focus on improving women's human capital as well as their access to resources alongside reforms in the business regulatory environment.

5.4 Will making labour regulations more flexible increase women's economic participation? *Could it increase the number of women in the labour force?*

In “*Employing Workers*” six measures were used to come up with an indicator. These are: the difficulty of hiring and difficulty of firing indices (both ranging from 0 to 100, where 100 is the best), the rigidity of hours and rigidity of employment indices (both ranging 0 to 100, where 100 is the best), non-wage labour cost (as percentage of salary) and the cost of firing (in weeks of salary). In essence the indicator “*Employing Workers*” measures the ease and costs of employing and laying-off workers and the stringency of working hours. Based on global experience, the World Bank advocates for four areas of reform that will facilitate movement within the labour market namely:

- Allowing flexible working hours
- Introducing apprentice wages
- Lowering dismissal costs
- Raising and equalising mandatory retirement ages

The rationale behind the “*Employing Workers*” indicator is that when labour regulations allow for flexibility without giving up worker protection, more jobs will be created in the formal sector at the same time assisting changeovers from one job to another (World Bank 2008, 19). By having less stringent job laws, formal sector productivity increases, informality and business costs decrease and the incidence of child labour diminishes (World Bank 2006, 23, 26).

How will the suggested business regulatory reforms affect female employment? To provide an answer, we need to begin by looking at the factors that influence women's entry into the labour market in the first place. Worldwide, labour market opportunities are intricately associated to human capital endowments of workers; and from previous discussions it has been clarified that access to human capital is a gendered process (Ruwanpura 2004, 12). In the Embeddedness level, tradition, customs, beliefs and religion relegate women's social position as inferior and therefore restrict women's access to education as well as their mobility. This situation could be unknowingly or knowingly supported in society in the Institutional Environment, where regulation with regards to equality in educational access between boys and girls are missing or insufficient. When girls have limited access to education to begin with, it comes as no surprise that their economic opportunities are limited too. Thus, despite the good news that more women are getting educated than before, and although more women than before are *in* the labour market, the ILO reports that in the decade from 1996 to 2006, the labour force participation rate of women actually stopped growing (ILO 2007, 1; Buvinic / King 2007, 8).¹⁷ Regions such as Central and Eastern Europe, South Asia and Sub-Saharan Africa even reported declines in the labour force participation of women. In fact, in absolute numbers, the ILO reported that more women than ever before are unemployed.¹⁸

17 The second and third of eight Millenium Development Goals aims to achieve universal primary education, and empower women and promote equality between men and women, respectively by 2015. Worldwide, girl's enrolment in primary education have risen significantly, although 22 countries, most of them in Sub-Saharan Africa, are off track (see Buvinic / King 2007).

18 The labour force participation rate of women is defined by the ILO (2007) as the share of working age women who work *or are seeking work*.

The ILO reports that in 2007, women are more likely to work in low productivity jobs in agriculture and services. Worldwide data suggests that in developing countries women are also more likely to work as unpaid contributing family workers or low income own account workers, both of which are informal in nature. Job mobility is not an issue, because there are actually no other jobs available in the community nor the formal economy, requiring their abilities. Moreover, over the last ten years the women's share in industrial employment is also reported to be much smaller than men's, exacerbating increasing wage gaps at all levels (Buvinic / King 2007). Even within the European Union, the pay gap between men and women remained virtually unchanged at 15 % across all sectors (EC 2005). Wages and the wage gap between sexes was discussed before as an empirically proven rationale behind women's decision to re-enter the labour market. The continuing inequalities in earnings of men and women, despite having technically the same jobs or output, discourages many women workers. In developed countries such as Australia, Austria, Belgium, Germany, Greece, the Netherlands, Norway and Portugal, more than two thirds of discouraged workers are women. The figure goes up to 90 % in Italy and Switzerland. It is assumed that the rates are higher in the developing world, because women there face even more discrimination, social, structural and cultural barriers to their employment (OECD 2003).

However, not only education and wages, but also the woman's ability to meet familial and social obligations while working strongly affects their decision to enter labour force. Women who are already employed are apt to re-think *working* upon marriage or are naturally forced to stop working upon the birth of a child. At this point, a critical junction that labour laws could influence is the situation women will face upon their decision to return to work or not. The ILO reports that despite progress in the sharing of family responsibilities in economically developed countries, family responsibilities are still very much assigned to women (ILO 2007, 10). In poorer countries, women who decide to work must find solutions to balance child-raising with their employment. Again, this situation is traceable to the Embeddedness level, but means to work around this constraint can be operated at in the Institutional Environment and Governance Structures level. By creating laws that stipulate for the provision of child care facilities (or financial subsidies thereof) to mothers, many women will be able to meet the family-work balance and participate in the labour market. Creating laws that push private sector firms to provide for equal pay for similar jobs between men and women, pregnancy leave allowances (for mothers and fathers), feeding intervals during working hours and so on, will encourage women to harmonize work with familiar responsibilities.

Legal instruments are essential basic steps to deal with vertical and horizontal segregation among women and men in the labour force but it is also necessary to engage in activism that raises consciousness, particularly in highly patriarchal societies. Along with legislative changes, Ruwanpura (2004, 12) suggests the need to ensure that girls have better access to education and that women's access to social welfare is better placed. Thus, to make its laws credible and increase compliance, the government should also be vigilant in monitoring the implementation of labour regulations and provide concrete sanctions against firms who do not follow the rules.

Long term macroeconomic goals can only be achieved when gender inequality is eliminated by ensuring equal rights to women within the family, in their education, health and labour (Khotkina 2005, 2). This is not an impossible task. Take for example, post-colonial Sri Lanka. Sri Lanka exhibits relatively strong state intervention in the provision of social

security resulting in fairly equal health and education indices for both men and women. As a result, Sri Lankan women enjoy favourable positions in social, economic and political circles. However, looking deeper, it can be noted that Sri Lanka has a social and cultural space that is more accommodating towards women. The matrilineal and bi-lineal customary inheritance laws plus state support for women's education gives Sri Lankan women the freedom and capacity to participate productively in mainstream economic activities (Agarwal, 1996). This does not mean however, that no gender discrimination exists in the island nation. Strong tradition and culture still dictates the way people live their lives. The difference is that, the Institutional Environment stressed the importance of equality in access to resources, for both sexes. In addition, the country's social welfare systems were based on a gender conscious premise leading towards gender egalitarian provision of social welfare (Ruwanpura 2004, 7).

What are the binding constraints to women workers? The previous discussion showed that women's lack of human capital (skills and especially, access to education), inequality in wages for the same work, and lack of or gap in legislative support particular for the family situation of women, are the binding constraints for female workers. Reforming the business regulatory environment to allowing flexible working hours might encourage the entry of women into the labour market but this does not guarantee that women will work in conditions of freedom, security, equal pay, and human dignity. The reform might ease family- and children- related responsibilities of women but this is not sufficient to encourage women to work (or work productively) as long as other familial aspects (i.e. subsidies for child care, or presence of child care facilities, a tolerant work environment for working mothers etc) are not addressed. The confrontation between labour market related reforms and gender-based obstacles to female employment are presented in Figure 8.

Figure 8: Labour market reforms versus gender-based obstacles to female employment		
<i>Doing Business</i> reform		Institutional gender-based obstacle to employing female workers
<ul style="list-style-type: none"> • Allowing flexible working hours 	<i>Versus</i>	<ul style="list-style-type: none"> • Might not create impact on women whose mobility in many societies are still constrained
<ul style="list-style-type: none"> • Introducing apprentice wages • Lowering dismissal costs 		<ul style="list-style-type: none"> • Wage gaps between men and women exist • Employer bias against women still exist • Poor working conditions for women still exist • Debated: Very low dismissal costs might prove easier for firms to immediately and unlawfully dismiss women workers versus high dismissal costs leads to labour market rigidity and higher informality
<ul style="list-style-type: none"> • Raising and equalising mandatory retirement ages 		<ul style="list-style-type: none"> • Total lifelong earnings of women lower than men on average, so this reform allows women more time to save up

Introducing apprentice wages is viewed as positive reform for both sides of the working world. By allowing lower wages and the legal right to fire mal-performing workers, employers are encouraged to increase their work-force. A bigger job market is opened for everyone, leading to more opportunities for work. This reform could be a positive development for women as they are given more chances to enter the labour force, but with three *caveats*. First, the reform does not necessarily improve work opportunities for less educated or less skilled women. Second, the prerogative of employers to hire men over women is still actively at play here, as discussed in the section *Employer Bias* earlier. This leads to the third *caveat*, that there should be corresponding laws that make sure that employer bias in hiring is not carried out, and that employers will not abuse this useful reform for their own advantage.

Up to now, reforms targeting lowered dismissal costs remain a contested issue. There are two divergent schools of thought regarding the effects of employment protection to the labour market and the economy as a whole. The first school of thought, of which the *Doing Business* reforms support, argues that excessive employment protection leads to labour market rigidity and reduced employment opportunities (World Bank 2008, 19). This school of thought has been heavily supported by empirical findings from several longitudinal studies worldwide. For example, Lazear (1990) found evidence that employment protection through high severance payments raises unemployment and reduces employment participation. In 11 EU member-countries, Grubb and Wells found that general restrictions on employees' work reduced employment, increased self employment and reduced part-time work (1993). Scarpetta (1996) showed evidence that employment protection in 17 countries raised structural unemployment and increased non-employment rate, with stronger effects for youth employment and long-term unemployment.

The second school of thought argues that lowering dismissal costs goes against labour workers' rights and therefore is a backward development for the labour market system. According to the International Labour Administration (ILO) lowering dismissal costs (together with abolishing workers' recourse against unjust dismissal and eliminating the requirement for advance notice for dismissals) is one of the largely misinformed World Bank-advocated reforms because they hurt both men and women. Georgia, ranked by the World Bank in their *Doing Business* (2008, 19) as the fourth easiest country in the world to employ workers, is notorious with the ILO for granting employers the right to dismiss workers without cause and for imposing severe restrictions on trade union action and workers' right to bargain collectively (International Trade Union Confederation (ITUC) 2007, 2). Despite *Doing Business* arguments that rigid labour regulations reduce jobs (World Bank 2008, 20), Georgia actually registered an increase in unemployment from 12.6 % to 13.9 % while poverty worsened from 27.2 to 31.0 % from 2006 (the year when labour reforms were introduced) (ITUC 2007, 2). The ILO criticizes and condemns this reform using the following examples:

1. South Africa ranked low in the *Doing Business* due to its attempts to remove discrimination practices in the labour market with affirmative action rules on lay-offs. This is because the *Doing Business* penalizes countries who have priority rules over dismissals and those countries that have employer-funded publicly administered social protection programmes.

2. Due to their flexible labour laws, China and Colombia were ranked as good performers for three years in a row by the *Doing Business* (2006, 2007, 2008), despite the ban on workers from joining trade unions other than state-controlled organizations and where several trade unionists are killed each year and the crimes remain unpunished. Moreover, the two countries continue to fail to substantiate that the elimination of labour regulations led to the creation of more and better jobs.
3. Tonga and Marshall Islands, two small south Pacific island states rated higher in Employing Workers than all of the European Union member states because they hardly have labour laws of any kind, were among the minority of countries who were not members of the ILO and therefore did not need to follow the core labour standards (CLS).
4. Saudi Arabia ranked 23 in Ease of Doing Business and ranked 40 in Employing Workers although the state has one of the most discriminatory environments for women workers, in particular, where trade unions are prohibited and women are banned from numerous professions.
5. Due to their deregulated labour markets and subsequent higher ranking in the *Doing Business* Employing Workers indicator, Afghanistan, Haiti, Mongolia, Papua New Guinea, Solomon Islands and Yemen seemed to have found the successful recipe for job creation that the outranked countries such as Finland, Korea, Luxembourg, Netherlands, Norway should imitate (ITUC 2007, 11). The list goes on.

In her testimony before the U.S. House of Representatives Financial Services Committee, Thea Mei Lee, the Policy Director of the American Federation of Labour and Congress of Industrial Organizations, argued that with the *Doing Business* Employing Workers Indicator, the World Bank is contradicting its overarching goal in 1999, which is to keep full time workers out of extreme poverty (ITUC 2007). This is because the doing Business penalizes countries that have statutory minimum wage, unless it is less than 25 % of value added per worker, amounting to 1\$ a day in most Sub-Saharan countries, which is the threshold for extreme poverty (Lee 2007). In effect, the World Bank is contradicting its endorsement of MDG 1, which is to halve extreme poverty and hunger (Lee 2007, 4; Buvinic / King 2007, 7).

Finally, the reform involving raising and equalising mandatory requirement ages, in countries that discriminate retirement ages between men and women, is a logical and needed institutional change. As argued earlier, worldwide averages show that women live longer than men, and that many countries, particularly the developed ones, have an aging population. Cutting off women's working years by forcing them to retire early equates to a cut on their productivity levels. By allowing women to work more, the social security burden of the government is reduced, because women are given longer periods of time to save up for their pensions. It is a good sign that the *Doing Business* mentioned that this reform is the opportunity for the "*half of countries who force women to retire earlier than men*" (World Bank 2008, 23).

6 Conclusions and recommendations

6.1 Summary of findings and conclusions

That women play an important role in private sector development and contribute significantly to the economy is a reality. However, women's productivity and participation are hampered by many aspects at different levels of institutions. The strongest of institutions arise from the level traditions, beliefs and social norms which dictate how resources are allocated in the community. Unfortunately in many developing countries, tradition and norms situate women in an inferior position with regards to men, and disadvantages many in matters of resource access and acquisition. Existing laws and regulations in these countries may either support gender discrimination (when women are accorded less rights) or are crafted in such a broad manner that they do little to improve women's social standing.

Policies and reforms are tools governments possess to influence the institutional environment. Thus, the paper argued that what is needed is a policy environment that empowers women by enabling them to access and acquire productive resources and makes it easier for them to participate in the economy. The World Bank's *Doing Business* project attempts to create a *level playing field* for men and women in the private sector by encouraging institutional reforms worldwide. The general objective is to do away with cumbersome regulations that burden entrepreneurs and hinder economic growth.

By encouraging reforms, the *Doing Business* uses a New Institutional Economics (NIE) approach that traces differences in economic performance among nations to the quality of their institutions and economic policy. To explain and analyse the approach, Williamson's (2000) model of levels of institutional analysis was used. Analysis of the reforms in four areas of *Doing Business* in the light of the four levels of institutions showed that:

- **On credit:** The lack of access of women to formal credit has customary and statutory origins that tend to trap women into poverty and economic dependence. Microfinance institutions have been highly acclaimed for their tremendous assistance towards female entrepreneurs, however, there are limitations of micro credit that hinder women-led businesses to expand and formalise. Reforms that aim to increase women's credit access should fully recognize and acknowledge the multi-dimensional nature of women's lack of credit access and find ways to work around the issue. Customs that limit women's ownership rights and mobility as well as social perceptions about women's capacities are important issues the need to be confronted before finding ways to introduce change.
- **On property rights:** Access to land remains one of the major barriers confronting many women worldwide. This is because tradition and legislation in some countries tend to disallow or neglect specific women's rights to land and property acquisition, making it difficult for women to be productive. More often it is strong tradition and norms in rural areas that explicitly prohibit women from owning property, even if legislation favouring female property ownership is present. Policymakers need to realise that local level practices are critical filters for the successful implementation of any policy. Therefore a critical understanding of resource property regimes and the diverse set of factors affecting women's access to land is needed before attempting to devise policies that promise equitable property rights for all.

- ***On starting a business:*** Many women-led businesses suffer from gender-bias in the procedures needed for start-up, making it more difficult for women entrepreneurs to start businesses or to formalise existing ones. The biases could be traced from traditional and cultural factors but it is the quality of policies at the Institutional Environment that makes a difference on business enabling conditions for all. Business start-up for women is strongly influenced by technological development, macro-economic conditions, and family-related decisions. These factors create significantly different start-up scenarios for men and women, which might not be bridged by reforming business procedures alone.
- ***On female employment:*** The *Doing Business* suggests labour market reforms that would allow flexibility for businesses to respond to a changing economy, increase job opportunities and spur growth in the formal sector. The argument against this is that caution needs to be practiced in reforming the labour market because new policies could easily override sensitive worker's rights as well as not help to "level the playing field" for women workers. Institutional analysis shows that women's employments are influenced by economic and non-economic factors of which de-regulation and simplification of labour rules could not address.

In sum, reforms that arise from the *Doing Business* are generally positive for both men and women entrepreneurs and encouraging for private sector growth. However, *Doing Business* manages to address not all of the issues but rather, only a sub-set of the regulatory issues confronting women entrepreneurs and definitely not their most binding constraints. The DB reforms may not be sufficient to overcome barriers to the start-up, expansion and formalisation of women-led enterprises and this should be specified in the reports.

Table 7: <i>Doing Business</i> 2008 indicators, reforms and impacts on women				
<i>Doing Business</i> indicator	Suggested reforms	Expected impact on women	Remarks with regards to expected impact on women	
Getting Credit	Expanding the range of information available in credit registries	Ambiguous (-/+)	The expected impacts of the two suggested reforms on women's access to credit is ambiguous. On the one hand, this policy will definitely improve credit access of women who are already in the commercial credit system. On the other hand, how this will improve credit access of women who do not have commercial credit histories and who are still beginning to obtain loans is uncertain.	
	Eliminating legal obstacles to sharing credit information	Ambiguous (-/+)		
	Allowing all types of assets to be used as collateral	Positive (+)	The expected gender-related impact of these two reforms is positive. A policy that allows non-land assets to be used as collateral works successfully with many patrilineal inheritance systems where women don't inherit land but rather, jewelries or equipment. Both urban and rural women entrepreneurs will benefit from this reform.	
	Establishing registries for all types of collateral	Positive (+)		
	Allowing out-of-court enforcement of collateral	Negative (-)	In societies where women who are considered minors in society, and where women are not aware of their rights or are not confident to fight for their rights, this reform could make women more prone to exploitation.	
Registering property	Simplifying and lowering property registration fees	Ambiguous (-/+)	Reforms that make property registration cheaper, faster and simpler are important. On the one hand, they will increase property ownership for urban women, educated women who know their rights and women with money who can purchase land. On the other hand regulation and norms in some countries prohibit women from owning and registering property under their name. Moreover, in some countries women hold only secondary/common land rights that would be lost once individual titling procedures are implemented. This is because land is normally registered under the name of the husband or male community leaders. The government should make sure that equality in land titling should be enforced, particularly in rural areas so that reforms do not further discriminate against women.	

Registering property	Introducing fast-track procedures	Positive (+)	<ul style="list-style-type: none"> • Ensure that not only male community leaders and household heads acquire total legal ownership of land, but rather promote co-ownership of marital property. • Ensure that individual property titling will not remove secondary rights of women which could have been asserted under traditional land tenure systems. • Several studies show that the general assumption that titled property increases access to credit and increases income does not always happen.
	Making the use of notaries optional	Positive (+)	
	Taking registration out of courts	Positive (+)	
	Making the registry electronic	Positive with caveats (+)	This reform will speed up land registration process. In developing countries, it might be costly to implement due the required infrastructure and skilled labour to set up a system. Moreover women in rural areas who have no access to computers, internet or do not know how to use a computer will not benefit from this reform.
Starting a Business	Cutting the minimal capital requirement	Positive (+)	Minimum capital requirement is one of the significant obstacles for women to start businesses.
	Introducing a one-stop-shop for business registration	Positive (+)	This reform solves rent-seeking problems of women although bribe collection is one – but not the most important problem – with formalization.
	Standardizing incorporation documents	Positive (+)	
	Removing outdated formalities	Positive (+)	
	Allowing online start-up	Positive with caveats (+)	This reform speeds up the process of entrepreneurship. However, based on experiences worldwide, online registration must be implemented without hidden requirements such as voluminous documents that still need to be submitted pre or post registration. Similar to electronic registry of property, costly infrastructure and skilled labour requirements for developing countries might be an issue. Moreover, women rural areas might not benefit.

Continued Table 7 <i>Doing Business</i> 2008 indicators, reforms and impacts on women				
Em- ploying workers	Allowing flexible working hours	Positive with caveats (+)	Flexible working hours opens the possibility for women to work at times previously disallowed, and is useful when their schedule does not permit them to work at other times of the day. However, this might not solve the issue of women's immobility outside their homes. However, this reform does not guarantee that women will work in conditions of freedom, security, equal pay and dignity. The reform is also not sufficient to encourage women to join the labour force as long as other familial aspects such as child care is not addressed.	
	Introducing apprentice wages	Positive with caveats (+)	Due to lower rates of apprentice wages, firms are encouraged to employ women and women are given the chance to prove their worth. However, the reform does not improve work opportunities for the less educated and less skilled women in society.	
	Lowering dismissal costs	Ambiguous (-/ +)	Lowering dismissal costs is still a contested topic. On the one hand, research shows that overly protective worker regulations with high dismissal costs result in a rigid labour market and increased long-term unemployment. On the other hand, weak employment protection in the form of low dismissal costs have been documented in reports of abuses by employers worldwide.	
	Raising and equalising mandatory retirement ages	Positive (+)	This reform allows women to be productive longer and women are given longer time to save up for their pensions, reducing social security burden to governments.	

How reforms related to expanding credit registry information will affect women remains uncertain. This is because the real issue with regards to credit information lies in the weak- or non-conveyance of women's good repayment records within micro-credit set-ups towards formal public and private lending agencies. Conversely, reforms promoting the legal acceptance of all types of assets into collateral is seen to improve women's credit access. Due to gender-biased inheritance practices in many developing countries, allowing women to legally use non-land assets as collateral will boost their access to financial resources. Out-of-court collateral enforcement is seen to disproportionately hurt women because the few legal rights women in developing countries have to begin with, is further open for exploitation. The government should take a proactive role in making sure that women will have adequate access to credit by providing incentives to banks and lending institutions to mainstream women among their borrower-clientele. Consequently, the government could also establish sanctions against offices that continue to discriminate against women borrowers and follow it through with credible action.

Women are seen to gain equally or even more gainfully from the first three reforms with regard to property registration that were suggested by the World Bank based on DB reports. However, several studies demonstrate that individual property titling systems further erode the remaining secondary rights that women have with regards to land. The expected effect with regards to faster titling procedures, that is, higher credit availability and higher incomes have received mixed reviews. Electronic registry is hailed as a positive reform although women's education levels and the costs of establishing a system are critical considerations. Taking registration out of courts and optional use of notaries are seen as positively impacting women's access to and rights over land because women do not have to travel far to capital cities to register land. In general, although reforms pose no negative effects to female entrepreneurs, the paper senses that the type of women who would benefit from the reforms are women who are financially able to afford land.

All of the reforms advocated by the World Bank with regards to Starting a Business are seen as positive for women's entrepreneurship. Empirical results show that the reform regarding minimizing start-up capital could make a huge impact than other entry regulation reforms. However, it is also unwise to assume that business regulation procedures are burdensome and are mere avenues for the extraction of rents. Business entry regulation could also be valuable in the long run, because of its ability to reduce average transaction costs between entrepreneurs and officials. Together with reforms for the demand side of business entry, the government should also focus on business supply-side reforms, in particular, improving business women's access to resources and improving women's human capital.

With regard to female employment, what the analysis shows is that, policymakers should not only place female employment at the core of reform and other economic policies but also recognize that women face additional challenges in their working environments. For instance, reforms that allow flexible working hours and introduce apprentice wages could encourage more women to work but are insufficient to guarantee that women will work in conditions of equal pay and dignity. Raising retirement ages is a logical and needed institutional change. However, caution should be exercised in reforms that lower dismissal costs because its socio-economic benefits and harm are still being debated.

6.2 Reforming the reforms: Sharpening policy by mainstreaming gender in the *Doing Business* reforms

6.2.1 Developing a gender index

The paper suggests developing a Gender Index to be included among the *Doing Business* indicators. The *Doing Business* report has already shown that burdensome business regulations hurt women most. Therefore, a more useful output of analysis, aside from identifying what type of reforms are most beneficial for working women, is to create an index that specifically measures the Institutional Environment for female entrepreneurs. This development will allow countries worldwide to be ranked according to how their governments manage and safeguard the rights of economically active women. Ranking countries according to their Gender Index in the *Doing Business* report will not only bring gender-issues to the forefront but also enable governments to be more proactive in elevating the status of women in their societies.

Possible indicators to be used for the Gender Index include 1) extent of equal legal rights 2) female employment, 3) credit access 4) land access and 5) women entrepreneurship. The first indicator on women's rights would measure to what extent women have equal rights in society. The indicator could include questions about laws that discriminate against women's ability to earn a living and support themselves and their families, international treaty obligations, provisions for equality between men and women in the constitution, parallel legal systems, statute law and common judge law, all of which have an impact on gender equality issues. Female employment indicator could include core questions on whether national laws address equal pay for men and women, non-discrimination in hiring practices, working time restrictions for women and length of maternity leave. Access to credit indicator could focus on credit information about women, the ability of women to open a bank account, access to finance without the need for a male co-signer and the use of movable and immovable property as collateral. Registering property (land) indicator could reflect any legal restrictions on women's rights to register, own, use or rent land and other immovable property and the rights of married women to transfer or use land as collateral. Women entrepreneurship could include aspects that measure the gender parity index of entrepreneurship and regulations that explicitly hinder women from starting businesses.

Definitely, more research is needed to determine which indicators properly measure the business environment for female entrepreneurs. A pilot phase could be done to determine if the Gender Index reflects the ways the Institutional Environment hinders female economic participation and to find an optimal level of regulation with regards to the Gender Index.

It is clear that what is needed to put a stop to persistent gender disparities and social inequalities are institutional reforms that establish a foundation for equal rights and opportunities for women and men (World Bank 2000, 1). The following are suggested reforms in addition to the reforms suggested by the *Doing Business* reports. The suggestions below specifically address women's most basic constraints in economic participation in the private sector, based on the findings of analyses conducted in earlier sections. These are also suggestions on how to address the expected ambiguous, negative and other limited expected impacts of *Doing Business* 2008 that the study was able to identify in Table 7. The objective of these suggested reforms is to mitigate gender discrimination in the private sector, to encourage women to move out of the informal sector and participate in the formal economy and to be productive assets of society.

6.2.2 What to reform in Getting Credit?

Create legislation that allows microfinance records to be legally accepted and used for public credit registries – One way to increase the confidence and respect of banks towards women borrowers is for them to be informed about their past payment behaviour. Since women borrowers have greater access to micro-credit but less access to public and private banks, creating a system that translates women's excellent micro-credit repayment history to public credit registries is a way to reduce discrimination and allow them to be taken as serious borrowers.

Establish a financial model that allows women to graduate from microfinance institutions towards commercial lending. Promoting integrated financial models which are inter-linked and allow for the graduation of women from one source of capital to another will create a value chain of opportunities through skills development and recognition of repayment histories (Hilton, 2008).

Increase financial capacity of microfinance institutions by providing government subsidies – When women entrepreneurs are still limited to borrowing money from microfinance institutions, the government could provide subsidies to these informal agencies so that the amount of credit available for borrowers could be higher. In this way, women are not constrained to smaller amounts of credit which might not be enough for their investment and expansion needs.

Developing more gender-appropriate lending procedures, flexible repayment schedules and promoting women's savings in innovative ways are financial products that cater to women entrepreneurs and is one method to increase their access to credit.

Supporting women to women enterprise development by linking rural- with urban-based women and other marketing opportunities, sponsoring training and study exchanges between women's groups and strengthening or initiating lines of credit for women in banking and credit organizations as well as specialized facilities targeted for women are possible options (Jiggins 1989).

Information campaign on women's rights to access credit - It might still be a long way before bank officials change their perception of the incapacity and legitimacy of women borrowers. However, an information campaign targeted towards women entrepreneurs and also towards commercial banks that explains women's rights to access credit could empower women to insist on being taken seriously, and encourage banks to accept their loan requests. Training bank staff on the particular needs of potential and existing women customers can be an important first step in increasing women's portfolio (Niethammer et al., 2007).

Establish specialized courts for defaulted loans – Instead of allowing out-of-court enforcement of collateral, an alternative is to create a small claims court specializing in collateral disputes or offices that administer third-party arbitration. Because the special court will tackle only defaulted loans, the backlog in resolving collateral disputes will be reduced, while men and women could take out loans without fear of losing property directly.

In the Philippines, "Justice On Wheels" project was the local Manila government's response to congested city jails that house suspects while they await trials. In this project, converted buses not only transport judges to city jails but also serve as small court. In this way, the resolution of cases involving suspects who are in jail for a long time or are accused only of petty crimes is expedited.

Encourage participation of civil society as watchdog for discriminatory money lending practices against women - The organization of a civic group that aims to observe and report cases of exorbitant interest rates, bribery and unfair money lending practices by corrupt government officials could help reduce the incidence of rent-seeking and diminish the vulnerability of women who want to obtain credit.

6.2.3 What to reform in Registering Property?

Legally recognize or institutionalise secondary / community /common /usufruct land rights – In areas where individual land titling leads to conflict and confusion, an alternative would be to legally identify and recognize secondary /community/ common / usufruct land rights or collective ownership that secures land access for tenants and women.

Enforce female land ownership or marital co-ownership – The importance of reforms that clarify and defend women's land ownership in cases of marriage, divorce and death of a spouse can not be emphasized enough. Laws that require the consent of both husband and wife for the sale of commonly acquired property are also needed. Women are particularly vulnerable for dispossession therefore, education campaigns that encourage fathers, husbands or male relatives to transfer property titles to their daughters, wives or female relatives in the presence of a witness and in a well-documented manner are ways to increase the acceptance and cognizance of female property ownership.

Rural people remain attached to gender oppressive tradition despite law prohibiting its observation. The abolition of such traditions requires great perseverance and a sequencing of reforms. Regulation against discriminating customs need concentrated state effort to enforce including controls, sanctions, incentives and advertising campaigns. In rural areas, it is important to target separately and obtain the support of rural chiefs and religious leaders because they can pressure rural families better than the national government can (Jütting / Morrisson 2005).

Review of government legislation with regards to land and property ownership – In some countries, laws pertaining to property ownership explicitly discriminate against females and are found to be outdated, conflicting and obsolete. A review of legislation to determine areas of confusion and gender discrimination should be conducted before creating new legislation that aims to achieve egalitarian land dissemination.

Information campaign with regards to women's rights to property and require proportionate gender representation in land committees – The need to have a proportionate number of women in land regulation committees permits women's issues regarding access to and rights over property to be voiced out. By having women in the land-related committees, campaigns that increase women's knowledge about their legal land rights, gender-based reviews of existing land laws and opportunities to increase women's power within decision-making bodies are made possible.

In case it is still difficult for women to break through gender barriers in government, the state could *guarantee women more participation in decision-making* from the community to the national level. The state could reserve quotas for women seats in parliament, with higher quotas at community level because it is at the community and rural level where gender discrimination is strongest, and where enforcement of regulations favouring women are not weakly

enforced. A quota system for women and minorities in Nepal resulted in a third of the Constituent Assembly seats going to women in the April 2008 elections (United Nations 2008). Women-quotas have been done successfully in India, Argentina and Pakistan.

Critical analysis of technologies before introducing them to agricultural communities – Before technology is introduced to small farming communities; it should be critically assessed by gender experts if it is negatively affecting women's traditional roles, responsibilities and contributions to farming. Technologies that undermine the role of women in food or cash crop production might lead to the removal of their secondary rights to land.

6.2.4 What to reform in Starting a Business?

Provide adult education and skills training for women who would want to set up businesses – Women who did not have proper education but still would want to set up businesses could be supported by providing them with fundamental knowledge and skills needed to set up and maintain a business. Strengthening women's negotiating power at policy levels might be a more powerful strategy for improving women's position in the labour market. Another strategy is to develop advocacy skills among women in mainstream farmer associations and cooperatives, worker rights movements, and plantation unions to encourage women's participation in such groups (Jiggins 1989).

Review why women entrepreneurs choose to remain informal before formulating policies that encourages them to formalise – There are several other reasons why women prefer to remain informal in their businesses. A review of the constraints and problems that women-led micro/small enterprises face in their decision to go formal is necessary in order to formulate a policy that specifically addresses their concerns.

Allow a one-stop-shop or online start-up *without hidden requirements* – Note that the reform is merely a specification of the second and fifth reform suggested by the World Bank in the *Doing Business* 2008. The aim of this reform is two fold: first, governments should not merely compress or postpone unnecessary procedures, but rather eliminate them totally. Second, reforms in this direction should be not only to reduce time and costs of initial compulsory interaction between women entrepreneurs and agents, but rather to also decrease average long term transaction costs (Arruñada 2007).

Increase women's access to technology – Women entrepreneurs in developing countries are most likely to sell perishable produce or manufacture labour intensive products. Increasing their access to technology by means of introduction seminars and demo-trials could tremendously improve their productivity and reduce the time/effort expended for production or manufacturing.

Encourage the formation of a network of women entrepreneurs – Networks among women entrepreneurs could strongly aid in the transfer of important information that could help women get their businesses off the ground. Information with regards to credit worthiness, reliability of training partners, supply sources could be relayed within the network and help women make strategic business decisions (Sum 2004).

6.2.5 What to reform in Employing Workers?

Increase women's human capital through education and training – The importance of education as a factor that increases women's participation in the labour market could not be stressed enough. *Education* has been repeatedly pointed out as the single major factor that could empower women. However, girls are not sent by parents to school for many reasons. Where rural agriculture is labour intensive, parents prefer to keep girls at home to help in farm operations. To relieve the need for child labour in rural areas, the promotion of time saving and labour saving technologies and innovations is important. In remote areas, time and security constraints for girls are considered by parents when schools are too far from homesteads. Therefore, promoting targeted investment to infrastructure such as *good roads that link rural areas to the schools* are needed.

Good farm-to-market roads also relieve women farmers of extreme workloads, especially in areas where produce are still transported on women's backs. Information and communication technologies such as phones, radios and computers could remedy illiteracy, not only for girls but also for women. *Promoting the transfer of information*, for example, about market prices of food and cash crops could help women programme production as well as reduce transaction costs for commuting and trading.

Encourage employers to give equal employment opportunity to men and women – In several countries the concept of equal opportunity employment / equal pay is not practiced. Government encouragement in this area is needed in order to give women a chance to work at the same level as men.

Ensure that apprentice wage reforms are not used to advantage of employers – Equally important are the creation of sanctions for employers who are proven to abuse apprentice reform. Apprentices should not be tapped as cheap sources of labour that could be disposed of without legal repercussions.

Enforce and implement policies that address specific women's situations such as maternal leave, leave with pay, child care and assurance to get the job back after maternity - Reforms that support women in terms of work-dignity, child care and/or subsidies, parental leaves, and equal pay need to be enforced. These policies are important issues that women consider before leaving/entering the labour market.

The ability to *work on a part time basis* appears to be one of the key factors in attracting women back into work after child birth, so policies designed to boost female employment could also focus on this despite the fact that it can also result in a decline in average hours worked. Subsidized child care in many countries has directly increased the absolute number of post-childbirth female employment. Cross country studies by the OECD among others, find that subsidized childcare boosts female participation by raising the rate of return to work. Public expenditure on childcare as percent of GDP is 2.7 % in Denmark, 1.9 % in Sweden and 1.3 % in France, compared to 0.4 % in Spain and 0.5 % in US and UK (Daly 2007).

Require proportionate gender representation in workers' unions – Similar to suggested reforms in the area of property registration, an equal proportion of women should be represented in workers' unions in order to lend a voice to critical women's issues. A related reform that would reduce employers' bias would be, to promote hiring based on qualification or to prefer women over men when the qualifications are identical.

Where traditions still largely determine people's behaviour, standard policies to promote gender equality are important but not sufficient (Jütting / Morrisson 2005). The state should influence, subsidize and establish free media and communication channels through public opinion campaigns with regard to attitudes towards women. Law alone is not the solution unless it is combined with enforcement. Effective law enforcement assumes that the state is sufficiently capable of penetrating into rural areas where conflict between statutory and customary laws are more pronounced (Joireman 2008).

The key point to remember is that economic growth is also dependent upon the wellbeing of women. Improving the status of women in society is not simply about improving social justice and equalising human rights, but also about creating an environment that enables men and women to productively participate and contribute in the growth process. Accounting for cultural and social values in economic decision-making is important not merely because it removes social and economic constraints of women but also because it paves the way for sustainable growth and development.

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